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WORKS

IN

VERSE AND PROSE

INCLUDING HITHERTO UNPUBLISHED MSS;

OF

SIR JOHN DAVIES:

FOR THE FIRST TIME COLLECTED AND EDITED:

WITH

FAC-SIMILES,

Memorial-Introduction and Notes:

BY THE

REV. ALEXANDER B. GROSART,

ST. GEORGE'S, BLACKBURN, LANCASHIRE.

IN THREE VOLUMES.

VOL. II. PROSE.

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PREFACE.

It is with very considerable satisfaction that I now issue the completing parts of the Prose Works of Sir John Davies. The time and money spent on researches and copying and collating and copyists and collaters in the Public Record Office, the Bodleian, British Museum, Record Office, and Trinity College, Dublin, and elsewhere, long since involved me in pecuniary expenditure far beyond any possible return on my limited numbers. But as a matter of conscience I have carried on and at last finished my 'labour of love.' The Memorial-Introduction is enriched with many hitherto unprinted letters and other MSS.; and the State-Papers now first brought together as well as the Speeches, are results of the same lines of inquiry. I apprehend that in the still un-calendared Papers in the Public Record Office there are other letters and MSS. of Sir John Davies; but those given in

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the Memorial-Introduction and among the Prose are perhaps sufficienty representative.

One thing has struck me, that the more the State Papers of the period are examined the more evident does it become that SIR JOHN DAVIES was the ruling intellect and will of the administration in Ireland; nor less so that he was a many-sided and large-hearted statesman. It is easy for your elbow-chair critic to dispute the conclusions of one who knows better from actual reading and study, and glibly as emptily to treat as enthusiasm an Editor's conscience-ruled verdict on the evidence: easy to accept traditional criticism and deny the genius of "Nosce Teipsum" and "Orchestra," but whoso *broods* over them will agree that as Poet as well as Thinker and Statesman, Sir John Davies' position demands re-settlement and elevation. That he will find such by-and-bye I do not for a moment doubt. Toward it I am gratefully proud to have completed his Works in Verse and Prose.

Looking back on the Poems of this edition, I am glad that I had an opportunity for their revision in The Early English Poets of Messrs. Chatto and Windus (2 Vols. 1876); and looking back similarly on the Prose I have to regret inevitable disadvantages from a local provincial press. Nevertheless-just as they are, these three volumes, with all

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their short-comings, as they have cost me no little toil in every way so they must win a fruitful welcome from students of our early literature. The genuine student will be the last to gainsay my lofty (but accurate) estimate of Sir John Davies. Others I am not concerned with. Elsewhere (in the second half of the Memorial-Introduction) I state fully such estimate and its grounds; and when I am told that Sir John Davies's position is long settled, I ask by whom? By your Smiths, Browns, Robinsons and Joneses of criticism or by "the fit audience tho' few"? I am satisfied that the current verdicts on the most of our earlier Worthies are based on the shallowest knowledge of them, on ignorance indeed not knowledge. I lament that my Sir John Davies is not in type and other things equal to the later volumes of the Fuller Worthies' Library; but in the outset I had no choice, as the hazards were great. I have finally to acknowledge willing help rendered by various friends who are named in the places.

ALEXANDER B. GROSART.

1st November,
1876.

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MEMORIAL-INTRODUCTION.

I. BIOGRAPHICAL.

AS in other instances, the first thing to be done in any Life of our present Worthy, is to distinguish him from other two contemporary Sir John Davieses—non-attention to which has in many biographical and bibliographical works led to no little confusion. There was

I. Sir John Davis (or Davys or Davies) of Pangbourne, Berkshire, who 'sleeps well' under a chalkstone monument in the parish church there. He was mixed up with the 'Plots' (alleged and semi-real), of the Elizabethan-Essex period. Many of his Letters—various very long and matterful and pathetic—are preserved at Hatfield among the Cecil-Salisbury MSS. The Blue-Book report of the "Royal Commission on Historical Manuscripts" (3rd, 1872), makes a strange jumble of our Sir John's Letters (see Index, s. n.). He was Master of the Ordnance 31st January, 1598, and was knighted at Dublin 12th July, 1599. His Will is

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dated 6th April, 1625, and it was proved at London . . . . . May, 1626. Our Sir John was appointed one of his executors. Arms: *Sable*, a griffin, segt. *or*. He is supposed to have been of Shropshire descent.

II. Sir John Davies (or Davys or Davis) Knight Marshall of Connaught and Thomond: temp. Elizabeth. He had large grants of lands in Roscommon. He is now represented by the family of Clonshanville (or Loyle) in Roscommon, who are of Shropshire descent (see Archdall's Peerage of Ireland.) His Will is dated 14th February, 1625. He died 13th April, 1626. His Will was not proved (at Dublin) until 17th November, 1628. Arms: Sable, on a chevron, argent, three trefoils slipped, *vert.*: crest; a dragon's head erased, *vert.*

According to Mr. J. Payne Collier, the following entry is found in the register of S. Mary, Aldermanbury: "Buried Sir John Davyes, Knight, May 28, 1624." (Bibliographical Account of Early English Literature. i., 193). If there be no mistake here, we have another contemporary Sir John Davies. Certainly it was not ours, and as certainly neither of the two preceding.[1]

[1] Through B. H. Beedham, Esq., as before, I have many details on the two contemporary Sir John Davieses from Sir

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The spelling of the family name, which is now Davies, varies very much. I have found it as Dyve, Dayves, Davyes, Dauis, Davis, and Davies. Usually our Worthy signs 'Dauys;' but in his books changes, e.g.; in 'Nosce Teipsum' of 1599, to the verse-dedication to Elizabeth, it is 'Dauies;' in 1602 'Dauys,' and in 1608 'Davis,' and so diversely in his Prose.

Among the Carte Papers in the Bodleian are rough jottings by the Historian for a Memoir of our Sir John Davies, wherein it is stated that the family came originally from South Wales to Tisbury, Wiltshire. The words are: "His family had continued several generations in ye place, though descended from a family of that name in South Wales: but planted heere in England Temp. Hen. 7: accompanying at that time ye Earle of Pembrooke out of Wales.[2]

The 'estate' of the Davieses at Tisbury was named Chicksgrove (sometimes spelled Chisgrove.) Only a small fragment of the Manor-house remains

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Bernard Burke Ulster King at Arms, &c., &c., and J. N. C. Atkinson Davis, Esqr., Dublin; and the same acknowledgment has to be made on many points in the Life.

[2] Carte Papers, folios 330-334: Vol. XII. The particular MS. is headed "Notes of the life of Sr John Dauys. May 2d. 1674." These notes are not very accurate. To

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"unto this day." The Tisbury parish registers, however, yield abundant entries of the family-names, under the wonted three-fold 'Baptisms,' 'Marriages,' Burials;' and the church itself, in tablets and communion plate, and other memorials, possesses various evidences of their influential position for many generations, and in many lines of descent and local intermarriage. It must suffice here briefly to summarize the Pedigree, and to extract the entries immediately bearing on our present Life.

Confirming the Carte statement of a Welsh descent, one John Davys, of .....wyn in Shropshire, temp. Henry VIII., recorded by Carney (1606) in the visitation of Dublin in Ulster Office, and according to Chalmers settled at Tisbury, temp. Edward VI., came from Wales with the Earl of Pembroke, and was living in 1517 and 1541.[3] This John Davys married Matilda, daughter of ..... Bridemore, who was buried as "Maud, Master Davys widow, 18 May, 1570." There was a numerous family of sons and daughters from

begin with, the father's name is mistakenly given as Edward instead of John.

[3] In MS. F 4, 18, Trinity College, Dublin, the same origin is given, but the place beyond ..... 'wyn' is illigible in both.

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this union.[4] We have only now to do with their eighth and youngest son, John, who was living in 1517 and 1541.[5] He was of 'New Inn,' London; and thus, like his more famous son, was brought up to the study of the Law. This will appear authoritatively onward; but at this point it is meedful to correct and explain a long-continued error, originated by ANTHONY á-WOOD ("Athenæ," by Dr. Bliss, Vol. ii., p. 400) apparently, viz. that the father was a "wealthy tanner," and so Sir John, of "low extraction," etc., etc. I do not know that there should have been reason for shame had the paternal Davies been a 'tanner,' wealthy or otherwise, if otherwise he was that Christian gentleman which all reports represent. But the matter-of-fact is that through the premature deaths of his elder brothers, John Davyes, of Chisgrove, seems to have inherited the family possessions and wealth, and to have been in the front rank of the country gentry. The explanation of the mistake as to his having been a 'tanner,' is unexpectedly found in the Will of

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[4] Hoare's Wilts. gives many names; but his pedigrees are rarely trustworthy; as a rule, are exceedingly untrustworthy.

[5] The MSS. of note *supra*.

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Thomas Bennett, brother (as we shall see) of Sir John Davies' mother. Among other things he leaves "a certain mess. or tent. in West Hatch now (1591) in the use of Edward Scannell, and all lands thereto belonging, [to] be held by John Bennett my son, Thomas Rose and Nicholas Graye as trustees to my own use for life, and after my decease to the use and behoof" of various relatives, of whom one is described as "Edward Davys of Tyssebury, *tanner*." This Edward Davys, tanner, was no doubt of the Chisgrove family; and hence the confusion. In all probability he was one of the younger sons, and so brother of our Sir John. When he came to make his Will (now before me), though engaged in trade, he asserts his gentility by styling himself 'gentleman.' So much in correction of a second important biographical mistake.

John Davyes, of Chisgrove was married to Mary daughter of John Bennett (alias Pitt) of Pitt House, Wilts., (Visitation of Wilts., 1563) by Agnes his wife, daughter of . . . . . Toppe, of Fenny Sutton in Wilts. Hoare[6] and others, give ample proof of the almost lordly position of the

[6] Wilts., as before, on Davies, Vol. IV. part I., p. 136; on Bennetts, Vol. III., part II., p. 107.

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Bennets. Woolrych observes (1869) "The Bennetts of Pyt, have been well known in our time. The struggles of Bennett and Astley for the representation of the county are remembered as severe and costly."[7] Thus if Davyes of Chisgrove was of good blood in the county, he certainly advanced himself when he wooed and won a daughter of the house of Bennett (or Benett). They had at least three sons. The first was Matthew, who became D.D., Vicar of Writtle, Essex. Hoare (as before) calls him second son, and states that he died unmarried. Both are inaccuracies. The Tisbury Register shews that he was the eldest not the second son; and the Will of our Sir John remembers his family. The second son was (probably) the Edward who became a "tanner." He was baptized at Tisbury 6th December, 1566. He too is named in our Sir John's Will. The third was the subject of our Memorial-Introduction. The following is his baptismal entry from *(a)* the paper or scroll-copy, *(b)* the parchment or extended register of Tisbury—*literatim:*

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7 Lives of Eminent Serjeants, 2 vols., 8vo. (1869). By H. William Woolrych, Sergeant-at-Law: Vol. I., p. 187. considerable industry is shown in this work, but it literally swarms with blunders.

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(*a*) Paper MS.: 1569 April xvj. John the sonne of John Dauy was crysten'd.

(*b*) Parchment MS.: Anno dni 1569 April 16 John the sonne of John Davis bapt.

There were two sisters, Edith and Maria. Master John was in his 11th year only when he lost his father, who died in 1580. The Carte MS. "Notes" (as before) tell us: "his father died when hee was very young and left him with his 2 brothers to his mother to bee educated. She therefore brought them vpp to learning." The same "Notes" state "yt Iohn off whom we now write being designed for a lawyer, neglected his learning, butt being first a scholar in Winchester College, was afterwards removed toNew Colledge in Oxford." According to Chalmers (History of Oxford: I. p. 105) he became in Michaelmas term 1585, a Commoner of Queen's College, Oxford. From thence he removed in 1587 (not 1588 as usually stated e.g., by Wood to George Chalmers and Woolrych). The Admission Register of the Middle Temple contains his entry, and it is interesting additionally as establishing that his father was of the New Inn, London, and so of the legal profession:

f. 193 D

Tcio Die februarij A° 1587;

Mr Iohes Davius filius tertius Johis Davis de

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Tisburie in Com Wiltes gen de nov hospitio gen admissus est in societate medij Templi et obligat^r vna m 'm^r is Lewes et Raynolde et dat p fine—xx^s [1]

This 'entry' renders null all speculations as to whether by 'New Inn' were not intended 'New Hall' Oxford, &c., &c.; and it is a third correction of important biographical errors hitherto.

It is to be regretted that other Records of New Inn commence only with the year 1674. So that we are without light on the residence in the Middle Temple.

In 1590 the saddest of all human losses came on the young law-student by the death of his mother, who was buried at Tisbury "xxvth of Marche, 1590." In this year he is again at the University of Oxford; for in the "Fasti" (by Bliss, Vol. ii., p. 250) he is entered under 1590 as taking the degree of Bachelor of Arts. I fear that with the death of his lady-mother there ensued a full plunge into the frivolities and gaities of the University and Inns of Court society. It was a 'fast' period; and while his after-books prove conclusively that he must have studied Law

[1] From the original books, as *supra*. See Pearce's Inns of Court, p. 293, where it is stated that the elder Davies was a legal practitioner in Wilts.

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widely and laboriously, there can be little doubt that there were outbursts of youthful extravagance and self-indulgence. None the less is it equally certain—rather is in harmony therewith—that very early he mingled with the poets and wits of the day. There is not a tittle of evidence warranting the ascription of "Sir Martin Mar People his Coller of Esses Workmanly wrought by Maister Simon Soothsaier, Goldsmith of London, and offered to sale upon great necessity by John Davies. Imprinted at London by Richard Ihones. 1590 (4to)," [2] to him; nor can any one really study "O Vtinam 1 For Queene Elizabeths securitie, 2 For hir Subiects prosperitie, 3 For a general conformitie, 4 And for Englands tranquilitie. Printed at London, by R. Yardley and P. Short, for Iohn Pennie, dwelling in Pater noster row, at the Grey hound. 1591 (16mo)," [3] and for a moment concede his hastily alleged authorship. But in 1593 his poem of "Orchestra, or a Poeme of Dauncing," was "licensed to Iohn Harison" the elder. No earlier edition than that of 1596 has been proved; but the "license" assures us that Harrison had negotiated for its publication in 1593. The title-page of the 1596 edition is

[2] There is a copy at Lambeth. [3] There is a copy in the Bodleian.

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followed by a dedicatory sonnet "To his very friend, Ma. Rich. Martin." The Reader may turn to it "an' it please" him (Vol. I. p. 159): and "thereby hangs a tale." The dedicatory sonnet, it will be seen, while characterizing "Orchestra" as "this dauncing Poem," this "suddaine, rash, half-capreol of my wit," informs us that his "very friend" Martin was the "first mouer and sole cause of it," and that he was the Poet's "owne selues better halfe," and "deerest friend." We have the time employed on it too:—

> "You know the modest Sunne full fifteene times
> Blushing did rise, and blushing did descend,
> While I in making of these ill made rimes,
> My golden howers unthriftily did spend:
> Yet, if in friendship you these numbers prayse,
> I will mispend another fifteene dayes."

All this receives tragi-comical illumination from the fact that this same "very friend" and "better halfe," and he who so sang of him, had soon a deadly quarrel and estrangement. RICHARD MARTIN became Recorder of London, and one memorial of him is a Speech to the King which, if it partakes of the oddities of Euphues, must also be allowed to contain weighty and bravely-outspoken counsel: and thus he has come down to

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posterity as a grave and potent seignior. Moreover, he became Reader of his Society, and M.P. for first Barnstaple, and later for Cirencester. He appears, too, as the associate of Ben Jonson, John Selden, and others of the foremost.[4]

But as a youthful law-student he was 'wild.' He fell under the lash of the Benchers, having been expelled from the Middle Temple in February, 1591, for the part he took in a riot at the prohibited festival of the Lord of Misrule. He was fast of tongue and ribald of wit, with a dash of provocative sarcasm. Evidently he was one of those men who would rather (as the saying puts it) lose his friend than his joke (however poor the joke and rich the friend). A consideration of the whole facts seems to show that again restored to the Middle Temple he had let loose his probably wine-charged sarcasms at his friend Davies. Whether it were so or not, he was ignobly punished. For against all "good manners" not to speak of the "law" and the discipline of the Court,

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4 See Woolrych, as before, and the authorities therein given. At the end of Thomas Coriate's "Traveller for the English Wits," W. Jaggard, 1616 (4to), is a list of his acquaintances, to whom he desires "the commendations of dutiful respects." Among them occurs "Mr. Richard Martin, Counsellor."

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Master Davies came into the Hall with his hat on, armed with a dagger, and attended by two persons with swords. Master Martin was seated at dinner at the Barristers' Table. Davies pulling a bastinado or cudgel from under his gown, went up to his insulter and struck him repeatedly over the head. The chastisement must have been given with a will; for the bastinado was shivered to pieces—arguing either its softness or the head's asinine thickness. Having "avenged" himself, Davies returned to the bottom of the Hall, drew one of the swords belonging to his attendants, and flourished it repeatedly over his head, turning his face towards Martin, and then hurrying down the water-steps of the Temple, threw himself into a boat.[5] This extraordinary occurrence happened at the close of 1597 or January of 1598. In 1595 he had been called to the bar; but in February 1598 Davies was expelled by a unanimous sentence; "disbarred" and deprived for ever of all authority to speak or consult in law.[6] These "outbreaks" and expulsions were familiar incidents; and make us exclaim with Othello: "O thou invisible spirit

[5] Lord Stowell wrote an elaborate Paper on the whole matter and the restoration of Davies. It appeared in "Archæologia," Vol. XXI. Thither the Reader is referred, as I can't find room for it here. [6] Lord Stowell, as before.

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of wine, if thou hadst no name to be known by, let us call thee devil"—"O God, that men should put an enemy in their mouths to steal away their brains! that we should with joy, pleasure, revel and applause, transform ourselves into beasts" (ii. 3). This is the all-too-plain solution of these "high jinks." It was a disaster of the most ominous kind. Nevertheless the dark cloud that thus fell across the noon of the full-and-hot-blooded young Barrister folded in it a "bright light:" or —if we may fetch an illustration from Holy Scripture—as Moses the great Lawgiver of ancient Israel through the slaying of the Egyptian was compelled to be a fugitive in the wilderness and therein to master his native impulses and passion, so was the "offender" in the Hall of the Middle Temple through the disgrace and penalties incurred forced into retirement and introspection. It was a costly price to pay. But it is to be doubted whether if the enforced return to Oxford and the self-scrutiny and penitence that calm reflection wrought there had not arrested him, he ever had given our literature "Nosce Teipsum." His great poem bears witness to very poignant self-accusation and humiliation. Towards the close you seem to catch the echo of sobs and the glistening of tears; nor is it "preaching" to recognize a

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diviner element still—his unrest and burden alike laid on Him Who alone can sustain and help a "wounded spirit" in its trouble. Besides the hazardous as disastrous incident with Martin, his "Epigrams" by their *abandon* and general allusiveness reveal that he was the associate of the "young gallants" of the city and lived "fast;" and so give significance and interpretation to his later passionate regrets, self-accusations and self-rebuke. How abased and yet in touches how noble is this!

"O ignorant poor man! what dost thou beare
Lockt vp within the casket of thy brest?
What iewels and what riches hast thou there!
What heauenly treasure in so weake a chest!

Looke in thy soule, and thou shalt beauties find,
Like those which drownd Narcissus in the flood:
Honour and Pleasure both are in thy mind,
And all that in the world is counted good.

Thinke of her worth, and think that God did meane,
This worthy mind should worthy things imbrace;
Blast not her beauties with thy thoughts vnclean,
Nor her dishonour with thy passion base:

Kill not her quickning powers with surfettings,
Mar not her sense with sensualitie;
Cast not her serious wit on idle things;
Make not her free-will, slaue to vanitie.

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And when thou think'st of her eternitie,
Thinke not that death against her nature is,
Thinke it a birth; and when thou goest to die,
Sing like a swan, as if thou went'st to blisse.

. . . . . .

Take heed of over-weening, and compare
Thy peacock's feet with thy gay peacock's traine;
Study the best and highest things that are,
But of thyselfe an humble thought retaine." [7]

"Expelled" and "disbarred," he retired to Oxford and there "followed his studies, although he wore a cloak." (Wood's *Athenæ*, as before, ii. 401). To lighten severer studies he now leisurely composed that "Nosce Teipsum" from which has just been quoted the remarkable close. His vein must have been a "flowing" one; for it was published within a year of his disgrace. viz. in 1599.[8] It was dedicated to the "great Queen;" without

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[7] Vol. I., pp, 115-116, "Nosce Teipsum."

[8] The date 1592, sometimes (modernly) appended to the dedication of "Nosce Teipsum," has no authority, and is in contradiction with all the known facts and circumstances. Equally erroneous and misleading is the ultra-rhetorically given chronology in "Court and Society from Elizabeth to Anne," (2 Vols., 8vo.. 1861), which bears the name of the present Duke of Manchester, as thus:—"This Templar . . . . who wrote a noble work on the immortality of the soul in the very hey-

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the all too-common contemporary hyperbole of laudation, yet shewing the strange magnetism of her influence to win allegiance from the greatest, even in her old age:—

"Loadstone to hearts and loadstone to all eyes."

The Carte "Notes" (as before), thus tell the whole story and ratify Anthony-á-Wood:—"Vpon a quarrell between him and Mr. Martin before ye Judges, where he strooke Mr. Martin hee was confined and made a prisoner: after wch in discontment he retired to ye countrye, and writt

---

day of his young blood, who afterwards became famous for his gravity as a judge, his wisdom as a politician, and his soundness as a statesman, terminated his literary career as the author of a poem in praise of dancing," (Vol. I., p. 289). This is precisely the reverse of the fact. In his earlier hot-blooded days he threw off his gay and self-named "light" verses. In an interval of penitent self-inspection and worthier aspiration, he wrote "Nosce Teipsum," and he followed this up by ever-deepened grave, wise and weighty (prose) books. It is a pity (perhaps) to spoil your brilliant bits of antithetic scandal; and more pity that they should be hazarded for inevitable spoiling. Or put it in another way: it is too bad to have your cook serving up the Roast Beef of Old England as if it were strawberries (and cream). One need not use severer terms, knowing the ducal editorship is a blind. Campbell in his "Specimens," preceded in the blundering.

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y^t excellent poeme af his Nosce Teipsum, wch was so well approved of by the Lord Mountioy after Lord Deputy of Ireland and Earle of Devonshire, that by his aduise he publisht it and dedicated it to Queen Elizabeth, to whom hee presented it, being introduced by ye aforesaid Lord his pattron, and ye first essay of his pen was so well relisht y^t ye Queen encouraged him in his studdys, promising him preferment, and had him sworn her servant in ordinary." "Nosce Teipsum" was not his "first essay" so that perchance the meaning is that its verse-dedication was his "first essay" in addressing the Queen—his second being the hymns to Astræa. The "Hymns to Astræa" appeared in quick succession to "Nosce Teipsum" in the same year 1599. They are dainty trifles; but from all we know of Elizabeth would be received as "sweet incense." If they seem to us to-day flattering not to say adulatory, it must be remembered that such was the *mode*. Much later, Epistles-dedicatory from Bacon and others of the mighties, and not to Elizabeth but to James—are infinitely fulsome compared with the ideal praises of an ideal Elizabeth—that Elizabeth who had stirred the nation's pulses through her great patriotic words when "The Armada" threatened —in the most superlative of these "Hymnes."

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Their workmanship is as of diamond-facets. The "bright light" of olden promise was now "lining" the dark cloud. The discipline of his retirement to Oxford did him life-long good. Speedily outward events dove-tailed with the deepened ethical experience and resultant character.

For despair and disgrace there came hope and help. For a career that seemed arrested, a higher, and wider, and nobler opened out in inspiriting perspective. In 1599-1600 he was in all men's mouths as a Poet. The "Poetical Rhapsody" of Davison of these years would have been rendered incomplete without contributions from "I. D.;" and so there went to it those Minor Poems, that are read still with pleasure. So early as 1595 George Chapman had printed his "Ovid's Banquet of Sence," with lines from "I. D." More important still, "Secretary Cecil" became his friend and patron. "*By desire*" he prepared certain dialogues and scenes for entertainments to the Queen. Three of these remain. The first is "A Dialogue between a Gentleman Usher and a Poet."[9] The second is "A Contention betwixt a Wife, a Widdow, and a Maide." The third is "A Lottery" that formed part of an Entertainment at Harefield.[1] These

9 In Memorial-Introduction to Poems, as before, pp. 15-21.

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indicate that the recluse of Oxford was once more restored to society, and that the supremest. The favour of the aged Queen was capricious; but the "Lottery" that formed part of the entertainment at Harefield marked the turning of the tide, in flood not ebb. Through Ellesmere steps were taken to cancel the "expulsion" and "disbarring." He addressed a respectful and manly Petition to "his Society." It was considered at a "Parliament" of the Society, held on the 30th October 1601. He had presented it in Trinity Term; but it was adjourned until now. In the interval he had attended "the Commons" and in November after making the admission and satisfaction required by four Benches, it was unanimously agreed that he should be "restored to his position at the bar and his seniority." He publicly pronounced his "repentance" in due form on the feast of All Saints. This was done in the Hall in the presence of Chief Iustice Popham, Chief Baron Periam, Judge Fenner, Baron Savil, Sergeant Harris, Sergeant Williams, and the Masters of the Bench." The legal or ceremonial part being completed. and the Apology read in English, Davies turned to "Mr. Martin," then

[1] See on this in second division of this Memorial-Introduction.

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present, "and as he could offer no sufficient satisfaction to him, entreated his forgiveness, promising sincere love and affection in all good offices towards him for the future." "Mr. Martin" accepted the tender thus made, and the re-instatement was completed.[2] That the reconcilliation between Davies and Martin was formal rather than real has been too hastily assumed. True, that when in 1622 Davies collected his Poems, the Sonnet to Martin was withdrawn and a *hiatus* left towards the close of "Orchestra." But both these things are otherwise explainable. Both Elizabeth and Martin were now dead--the latter in 1618. Besides, it was only natural that the living friend should be willing to remove all memory of the quarrel. The name should only have revived it. This, and not a many-yeared carrying of an unclosed wound is my judgment in charity. The restored 'Barrister' never forgot his indebtedness to the Lord Chancellor. His dedication of his great "Reports" of Irish Law Cases and their correspondence remain too to attest the reciprocal admiration, if a tenderer word were not fitter, of Ellesmere.[3] His words in the 'Reports' dedication

[2] See Lord Stowell's Paper, in Archælogia, Vol. XXI., pp. 107-112.

[3] See Prose Works, as before, Vol. II. With reference to

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are more than respectful.

It would appear from the MS. dedication of a corrected MS. of "Nosce Teipsum" to "the right

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the Lines to the Lord Chancellor on the death of his "second wife" (Vol. I., pp. 112-3) it may be noted that he married (1) Elizabeth, d. of Thomas Ravenscroft of Bretton, co. Flint, Esq., (2) Elizabeth, sister of Sir George More of Loseley co. Surrey, Kt., and before him of Richard Polsted, Esq., of Aldbury, co. Surrey. Her second husband Sir John Wolley (sometimes spelled Wooley) died in February or March 1595-6 and was buried in St. Paul's Cathedral. She appears to have re-married (viz. the Lord Chancellor) in the same year: so that she did not live long thereafter; for she died on 20th January 1599-1600 and was buried with her second husband. The Lord Chancellor was in profound grief (as the Lines of Davies confirm); but he got over it sufficiently to marry (3) Alice, d. of Sir John Spencer of Althorpe co. Northampton, Kt., and widow of Ferdinando, 5th Earl of Derby, on 21st October of the same year (1599-1600) exactly nine months after the death of his (lamented) second wife. She survived the Lord Chancellor until 26th January 1636-7 and was buried at Harefield, co. Middlesex. Of Ellesmere himself these *data* may be given: Sir Thomas Egerton was created Lord Ellesmere 21 July 1603, upon his appointment as Lord High Chancellor of England. He was further created Viscount Brackley 7th Nov. 1616, and was about being made Earl of Bridgewater when he died 15th March 1616-7. His son John was so created 27th May 1617.

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noble, valorous, and learned Prince Henry, Earle of Northumberland" that he must have joined in the intercession for restoration, e.g.

"Then to what spirit shall I these notes commend,
But unto that which doth them best expresse;
Who will to them more kind protection lend,
Than Hee which did protect me in distresse."[5]

Contemporaneous with his full Restoration to his privileges at the Bar, the student-lawyer—through influence that has not come down to us—found his way into Parliament as M.P. for Corfe Castle. The House 'sat' for "barely two months"—October 27th to December 29th" (1601). It was the last Parliament of Elizabeth. The records of it are meagre and unsatisfying, but sufficient is preserved to inform us that untried and inexperienced in Parliament as he was, the member for Corfe Castle at once came to the front. A long-continued warfare on the part of the Commons against monopolies found in him a vehement defender of the privileges of the House. The wary Queen, who always knew when to give way, withdrew certain "patents" that had been granted and led to grievous abuses; and Davies was appointed one of the "Grand Committee" to

[5] Vol. 1., pp. 12-13 (Chatto and Windus edn.).

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thank her Majesty. He had spoken stoutly for procedure by "bill" and not by "petition." Richard Martin supported the monopolies.

In 1602 a second edition "newly corrected and amended" of "Nosce Teipsum" appeared. Still prefixed to it—and to his honour continued in the third edition of 1608 when she was gone—was the verse-dedication to the Queen. But it was now "the beginning of the end" with her. Somewhat cloudily and thundrously was the great orb westering. She died on 24th March 1603. It argues that Davies had advanced in various ways that he accompanied Lord Hunsdon to Scotland when that nobleman went with the formal announcement of James' accession to the throne.[6] A pleasant anecdote has survived that when "in the presence" Lord Hunsdon announced John Davies, the King—who if a fool was a learned one and capable of discerning genius—straightway asked "whether he were 'Nosce Teipsum'" and on finding he was its author, "embraced him and

[6] The Carte "Notes," as before, make Davies go to the Scottish Court on the birth of Prince Henry; but this is an obvious mistake: and yet it is noticeable that among the hitherto unpublished poems is one to the King, wherein contemporary allusion is made to his Majesty's visit to Denmark for his Queen.

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conceived a considerable liking for him."[7] That his position was regarded as a potential one with the new King is incidentally confirmed by letters to him from no less than Bacon, who addressing him in Scotland sought his good influences in his behalf, using in one a sphinx-like expression of "concealed poets" that it is a marvel Delia Bacon did not lay hold of to buttress her egregious argument on the Baconian authorship of Shakespeare's Plays.

Accompanying the King southward, Davies held his own at the English court. The royal 'liking' grew: and the royal brain—small no doubt yet alert and in a sense animated with patriotic feeling—was in earnest study of what has till to-day proved England's difficulty—Ireland. Mountjoy (later Earl of Devonshire and husband of Sidney's "Stella"[8]) was sent as Lord-Deputy, and Davies accompanied him as Solicitor-General for Ireland, for which office the "patent" is dated 25th November, 1603. Immediately almost on his arrival at Dublin, viz. on 18th December, 1603, he was knighted. The date hitherto given has

[7] Wood, Athene, ii., p. 401.

[8] See my edition of Sir Philip Sidney, being prepared for reproduction from the Fuller Worthies' Library in the Early English Poets of Messrs. Chatto and Windus.

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been "at Theobald's 11th February 1607," but the records of the Ulster King at Arms make it certain that the knighthood was conferred on 18th December, 1603. On the same occasion his "crest" is described as "On a mount *vert*, a Pegasus, *or*, winged, gules."[9]

I know no more noble story than the Work of Sir John Davies in and for Ireland. Our collection of his Prose Works, wherein his State Papers and Correspondence appear *in extenso*—from H.M. Public Record Office and other sources—make it clear as day that beyond all comparison he was the foremost man in the Government. With the sheer hard toil of humblest attorney slaving for his daily bread, there was a breadth of view, a self-denying resoluteness of purpose to benefit his adopted country, a prescience of outlook into the future combined with fearless and magnanimous dealing with contemporary problems, a high-hearted resistance in the face of manifold temptations to slacken effort, and a fecundity of resource and fulness of knowledge and vigilance of observation, that ought to be written on a white page of our national history. It is scarcely possible

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[9] Sir Bernard Burke and J. N. C. Atkins Davis, Esq., communications through Mr. Beedham, as before.

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to exaggerate the consuming labours and the actual and solid results of Davies' almost ubiquitory activities in Ireland. In this fuller Life of him I would here make good to the uttermost this high praise. The first extant letter from Davies to the home-government i.e. to Cecil, has been preserved (S.P. Ireland, vol. 215, 114). It is dated December 1st, 1603 and is *literatim* as follows :—

My honorable good Lord: it were too much presūption in me to interrupt & troble yr Lp. wth my trifling aduertisements, but that I performe my dūty therein and obey yr Lp's owne comaundment. Vpon my arrival (wch was the 20 of the last moneth) the face of things appered very miserable, for I was presently informed both of the pestilence & famine wch raigeth in this towne; but, this was but *primâ facie* (as or Law phrase is), for as soone as I had seen & observed the Courts of Justice (for the Terme did then continue), I saw so many causes depending, & such good formes of proceeding, as I was much comforted, for the people of this Iland (as it is observ'd of all the northren Nations), if they suffer injustice, either in deed, or but in their owne opinion, resort presently to the sword, to right themselves, being impatient of the delayes that ar found in the ordinary proces of law; but being ouer assubjected, and their swords over-mastred; they appeale as willingly to the seates of Justice and become the most litigious of all other. Mr. Chief-Baron, Sir Edm. Pelham, tells me that in his circuit the last sumer made into O'Donnell's c'untrey, he found a greater confluence & appearance of people there then wthin the Pale; & that the

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multitude that had been subject to oppression and misery, did reverence him as if he had been a good Angell sent from heaven; & prayed him vpon their knees to returne again to minister Justice vnto them; although indeed (he tells me) that divers of the better sort in the province of Ulster did refuse to accept of the King's cōmission for the peace, vntil they had receav'd warrant from the Earl of Tyrone so to doo. So that I conceave a very good hope that, after a Parliament wherein many mischiefs may be removed & prevented, & after the people ar acquainted with the forms of Justice, wch, wthout do'bt, is most welcome vnto the greater number wch have been subject so many yeares vnto rapine & spoile; this kingdom will grow humane & civile, & merit the name of a cōonwealth, wch at this time may properly be termed a cōon misery. for the troth is, that this State doth suffer that punishment wch Tantalus suffers (by the poet's fiction) suffers in hell; that is, it pines in plenty, for though there bee no want of Corne, no want of Cattle, no want of anything necessary for the life of Man, yet because there wants *mensura publica*, wch is money to measure the price of all these things; they that want these things cannott have them. for the money wch is now current by proclamation (I meane the money of the new standard conteyning three parts copper); albeit the same be decryed from 12*d.* to 4*d.*, yet it carries such dis-estimation wth the people, as they will not accept it for the basest cōmodity at that rate; & because my Lord Deputy, following the reason of State & in maintenance of the King's proclamation, hath cōmitted divers tradesmen for refusing to accept this money; thereupon the farmer dares not send his cōntry commodities, nor the townsmā expose his wares, fearing

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leste he shold be compeled to accept that money, wth wch he is not able to feed his famely. every man offers already to giue the shilling for 2*d.*, albeit there be 2*d.* of & 3*d.* fine silver in itt, and divers merchants doo buy vpp great sumes of it. & therefore in the opinion of some it were more honorable & more profitable for the King to resume the money at the same rate; for wch (I dare say) His Matie shall have more prayers & praise & acclamations in this poor kingdome then for all the pardons wch he hath given, & yet I dare affirme that he hath pardoned welny 30,000 persons. I hope yr Lp. will not think that I speake this in regard of mine owne particular (though for signing of pardons or patents they offer me no other then copper fees), but rather on the behalf of the King, whose rents & customes & forfeitures are all payd in this base standard; so that his revenewes, wch were never great, ar now become of very little valew. neverthelesse wee that ar his poore ministers could have wish'd (if it had stood wth his princely pleasure) that His Matie had not in such great quantityes granted awa his auncient crowne land heer; for, howsoever some may diminish the valew of this land, as if it were no better then if it lay in the Orcades or Groneland; yet I assure yr Lp. the land wch the patentees do passe is as good as any in Kent or Essex.

About fortnight since there arose a tumult in Galway abot this base money; but it was by the discretion of the comanders well appeased. As farr I have presumed vpon yr Lp's favour, whereof I have had a long & sweet experience; humbly praying yr Lp. to pardon my presumption in this, & hold me in yr wonted good opinion, whereof I shall ever make a most precious accompt, and so I humbly take my leave and leave yr Lp. to the divine preser-

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vation.—Dublin, 1 December 1603. Yr Lp's in all humble Dutyes Jo: Dauys.

About three months later, another equally characteristic letter succeeded. It is dated February 20°, 1604, and again thus runs, *literatim* :—

My honorable good Lord.

I have hitherto had neither tyme nor employment, nor other extraordinary meanes to attayne to the clear vnderstanding of any thing heer, by reason that ever since my arrivall the contagion hath been such in Dublin, as few have attended the State for dispatch of any business. The Terme hath been adjourned, and now lastly my Lord Deputy hath retired himself to a remote and solitary place, where I do (not vnwillingly) attend his Lp, because though I do heer I may safely study to do him service; and yet notwithstanding my small triall and experience of things, there ar some abuses so much in the eies and mouthes of all men, as were I mured vp as an Anchorite, I could not chuse but understand them: some of which I will presume breefly to note vnto your Lp.

first, touching the state of Relligion heer, we have 10

Hol. Pp. 3. *Sealed. Endd.:* "Mr. Davis, solicitor of Ireland, to my Lord, from Dublin." *Add.:* To the right honorable the Lord Cecyll baron of Essendon and one of his Maties most hon. privy Counsell. Throughout our text is given from the original MSS. In the Calendar it is modernized, and put into the indirect form. So almost invariably.

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Archbishops, and under them there ar or shold be 20 suffragan bishops at least. I have perused the booke of first fruits, wherein the spiritual livings ar all numbred and valued, and I find the Dowry of the Church to be very great; but I am informed by such as ar both wise and honest, that the Churchmen for the most part throughout the kingdome are meer idolls and cyphers, and such as cannot read their neck verse if they shold stand in need of the benefitt of their clergy; and yet the most of these, whereof many be serving men and some horseboyes, are not with out two or three benefices a-peece; for the Court of Faculties doth qualifie all manner of persons and dispence with all manner of non-residence and pluralities. And yet for all their pluralities they ar most of them beggers, for the patron or ordinary, or some of their friends, take the greatest part of the profitts by a plaine contract before their institution; so that many gentlemen, and some women and some priests and Jesuites, have the greatest benefitt of our benefices; though these poore vnlettred clarks beare the name of incumbents. Nay (that which is almost incredible, but I heard it of one that hath a place of speciall credit in this kingdome), the agent or nuncio for the Pope that lyeth lurking heer in this land; hath 40*l.* or 50*l.* a yeare out of the profitts of a parsonage within the Pale. But for an example of pluralities the Archbishop of Cashell is worthy to be remembred, having now in his hands four bishopricks, Cashell, Waterford, Lismore, and Imoly [Emly], and threescore and seventeen spirituall livings besides. I shold corrupt your Lordship tomuch if I shold tell you how they disinherit their churches by long leases and alienations in perpetuity, there being no such laws (as are in England) to reenstray them.

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But what is the effect of these abuses and enormities? The churches are ruined and fallen down to the ground in all parts of the kingdom. There is no divine service, no christening of children, no receaving of the sacrament, no Christian meeting or assembly, no, not once in a year; in a word, no more demonstration of relligion then amongst Tartars or canniballs. For redresse hereof, there came some few dayes since a particular direction from your Lordships of the Conselle in England, to survay the Church within the Pale, and to certifie the state thereof to England. Your Lordship's purpose is religious and honourable, but I fear there will be no such issue and successe thereof as your Lps. expect; for my Lord Deputy being withdrawne alone into the country, hath referred the matter to the Consell at Dublin to consider of the best course that is to be taken in this busines; and they have resolv'd that the bishops within the Pale ar the fittest men to bee employd in this survey. I note well that none can certifie the abuses of the Church more trewly then they, for some of them ar privy and party to them; but I doubt, they will deliver such a presentment as the country churchwardens are wont to doo when they ar uisited by the archdeacon; "*Omnia bene*," when the verdit should be "*Omnia pessime*." But if you will have the busines really performed, you must send vs visitors out of England, sapientes et timentes et q. oderit avaritiam (as Moses speaketh), such as never heard a cow speake and understand not that language, that they may examine the abuses of the Court of Faculties, of the simoniacall contracts, of the dilapidations and disherison of the churches; that they may find the trew valew of the benefices and who takes the profits and to whose uses; to deprive these serving me

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and horseboys and unlettred kerne that ar now encumbents, and to place some of the poore scholars of the colledge that are learned and zealous Protestants; to bring others out of that part of Scotland that borders vpon the North of Ireland, which can preach (as I am informed) the Irish tongue; to transplant others out of Ingland and to place them within the English Pale heer. And albeit, no man doubts but that every Christian Prince hath (without an Act of Parliament) power and authority to reforme the Church in his owne dominions, yet, because there is an expresse Act of Parliament enacted in this kingdom (28 Hen. 8. c. 5), whereby the King, his Deputie, and commissioners ar authorised to visit, redresse, reforme, order, correct, restrayne and amend all errors, abuses, enormities, and contempts in the Church, which by any spirituall authority or jurisdiction may or ought to be lawfully reformed, ordred, redressed, &c., to the pleasure of Almighty God, encrease of Christ's relligion, and to the conservation of vnity and tranquillity in this parte of Ireland (these ar the words of the statut) because (I say) there is such an expresse act enacted in this Land, if your Lordships in your wisdomes shall think meet to send such a commission hither, perhaps the recitall of it in the commission will not be impertinent in regard of the nature of this people. all which I humbly submitt to your Lps. wisdome and jndgment.

The next note that I shall offer to your Lp. is more proper to the place wherein I serve, bycause it concernes His Majestie in poynt of profitt, and it is touching some abuses of the escheator and surveyor. And first, it is found very inconvenient that there is but one escheator, one feodary, one surveyor, one auditor, one receavor for all this

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kingdome. It were to long to recite the particular mischiefs; but touching the escheator; he hath a deputy almost in every county. These deputies make a suggestion they are able to find many titles for the King in their severall counties, and thereuppon desire to have a generall commission to enquire of all wardes, marriages, escheates, concealments, and forfeitures, and the like. If this commission were well executed and returned, these were good servitors. But what do they? They retire themselves into some corner of the countyes, and in some obscure village execute their commission; and there having a simple or suborned jury, find one man's land concealed, another man's lease forfeited for non-payment of rent, another man's land holden of the King in capite and no livery sued, and the like; this being done, they never return their commission, but send for the partyes and compound with them, and so defraud the King, and make a booke and spoile vpon the country; so that we may conjecture by what meanes one that was lately an escheator clark is now owner of as much land heer as few of the Lords of Ireland may compare with him. I understand lately of one such commission awarded into Mounster, and I heard of some such abuses done by the commissioners, and thereupon moved my Lord Deputy to give direction to the Chief Baron to grant a supersedeas of it; which was done accordingly.

Thus much for the escheator. For the surveyor, the damage that he doth is especially at this tyme, when books passe from the King to the subject, and principally in the valuation of the lands which he doth survey; for three parts of the land being now waste and unmanured, he finds vppon his survey at this time that land at 10*s*. per acre, which if the peace continue and the land be peopled and im-

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proved, will within a few years be worth 100*l.* per acre; howbeit, it passeth in their books but for 10*s.*, so that a book of 100*l.* per annum will draw from the King such an extent of land as is incredible. But my lord, this abuse, however, is for the most in the valuation of lands that have not been formerly in charge; for of such lands as ar found in charge the auditor makes particulars according to the auncient rates. By reason of the adjournment of the last terme I have not had opportunity to vnderstand the carriage of things in the Exchequer, but hear (albeit the Chief Baron be an industrious honest gentleman), yet the inferior officers ar many of them very negligent and ignorant; whereby the King suffers much losse in his revenues. These things ar prejudicial to the King, but the losse and misery of the subject grows in so many wayes as I hear many of them say, that hithertoo the peace hath been more heavy and greevous to them then the warr; for besides the famin and pestilence, they suffer the sesse (as they terme it) of the soldier, which they think the worst plague of all; for the soldier will not be satisfied with such food as the country farmer hath in his house, but will kill his pigg, his lamb, his calf, and so destroy (spem gregis) the hope that he hath to restore his flock again, or otherwise doth extort old sterling silver from him, to save that which he hath from havock and spoile. Every day there comes complaynts of this nature to my Lord Deputy, and albeit, I know it is a clamorous and whining nation, aud will make things more heinous then indeed they ar, yet doubtless there is much oppression and wrong done vnto them.

But there is nothing hinders the publick peace and security so much as the facility of obtayning the King's pardon. It hath ever been the cause of thefts, rapines,

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murders, and rebellions in this kingdome. They commonly vaunt and bragg of it, and say that if they can steal 100 cowes and gett a pardon for 20, they gaine by the bargaine, for the 80 that remayne are clearly their owne. Heereuppon they remember an answer that one Grace, a follower of the Earl of Desmond's in his warrs, made to one that offred him his pardon from the Deputy if he would come in: I can, said he, have my pardon at any tyme; I have seaven pardons already in my chest, and I hope to have my chest full er I dy. The King hath done princely in giving mercy to all that were in action of rebellion, and therein we doubt not but His Majestie's meaning was to pardon only such offences as were committed by them while they were in action, and not to pardon all offences committed against the publick Justice since lawes took place and armes were layd aside; howbeit even till this day pardons of 100 and 200 at once ar passed and they ar all pardoned of all offences till the day of the date of the pardons. This is the cause that many murders and many robberies ar committed in sundry parts of the realme, and many Robin Hoodes do yet live in the woodes, bycause they presume that whenever they come they can be inserted in a pardon. Don Espagne and his followers have lately committed a murder of some that came to take a distresse vppon his land, and yet this man hath been pardon'd thrice within the twelue month, and now he sueth for a fourth pardon. The sonnes of Feagh M'Hugh have likewise of late committed severall murders, and their followers go vpp and downe the mountaynes armed with pikes and muskets. What should these men do with armes? There is no foreign enemy to fight against; the only use they can make of them is to cutt the throates of the King's subjects. It

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wold much avayle for the safety and security of this land if a generall muster were made and all their armes taken from them, and then to make a law that it shold be death to keep any gunns or pikes in their houses. The King of Spain holds that course with nations that ar more civil and lesse mutinous then this.

Further I beseech your Lordship, for the publick good heer, that some direction may come from you to the Consell heer to cause the Justices of peace to hold quarter Sessions, and to have assemblies and meetings as they have in England. It wold be a great terror and a meane to represse publick malefactors, and besides the gentlemen heer that understand not their office wold by this means learne how to governe the country.

Lastly, touching the Parliament which we expect shortly shal be summoned heer: I have sent your Lordship the copy of Poynings' Act (which directs the manner of holding the Parliament heer), together with the coppyes of all the other Acts which have either superseded that Act or expounded it. Sir John Perrot, who held the last Parliament, cold not obtayne any dispensation at all. I Prœsume to troble your Lordship with them, bycause I guesse that about this tyme it is a matter like to fall into consell and deliberation among your Lps. It is tyme that the Consell heer had instructions to consider what Acts ar fitt to be passed; for by that tyme they be certified to and fro, the yeare will be almost passing. For the base monyes there is little hope that any proclamation will bring it either into any creddit or into use. We have a better hope that since the King will not buy it in, that the English and Dutch marchants will transport it all and melt it downe. If any occasion hold any part of it heer, it will be kept by the

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King's tenants to pay his rent; and then such as have entertaynment of the King must receave it for their wages, which perhaps they will vtter to the King's tenants again (for no marchant will take a grote), and so it may have a ircular course till Domesday. I hope yr Lp. will according to your noble disposition & favor towards me pardon the length as well as the rudenesse of this advertisement, which I have now more leasure to write then your Lp. will have to read; but when heereafter I vnderstand things better, I shall make shorter relacions and more materiall: in the meantyme I cannot expresse my duty & devotion to your Lp. better then by trobling your Lp. with such intelligence as is presented vnto us. So with humble and thankfull acknowledgment of your Lps many reall favours towards me, I leaue yr Lp. to the divine preservation.

Riban, 20 February 1603. Yr Lp's in all humble Dutye, Jo. Dauys.*

A third and fourth letter followed with only a few weeks interval. The former is dated March 7th. 1604; and once more is here given *literatim* :—

My honorable good Lord: I wote well that yr Lp. suffers a losse of tyme, while you vouchsafe to read my trifling letters; yet I beseech your Lp. to excuse me if I troble your Lp. now with a short note or advertisement touching the resumption of these mixed monees. I know yor Lp. hath

* *Pp.* 7. *Signed. Sealed. Add.*: To the right hon. the Lord Cecyll of Essenden principall secretary to his Mtie and one of his Mties most hon. privy Counsell. From S.P. Ireland Vol. 216. 4.

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been advertised that the marchants of the towne did make an offer, by way of petition, that the King should resume or buy in all the copper moneyes in their hands, for 2*d.* to be given for every 12*d.*, and that, according to their example, all the kingdome besides wold willingly have descended to that course. But withall I think your Lp. was enformed that no lesse then 100,000*l.* of fine silver English money must be disbursed and transmitted to redeeme or bring in all the mixt moneyes now left and remayning within this realme; bycause, since the standart of base moneyes was first establisht heer, 400,000*l.* or 500,000*l.* of that mixture and composition have been transported hither. Truly I think the masse of mixt moneyes that have been issued into this kingdome is not much less then 400,000*l.*, but since the last decrie, this coyne hath been exported in such great quantities (as I am enformed by many honest & vnderstanding men in businesses of this nature) that 16,000*l.* or 20,000*l.* at vtter most would fetch in all that remaynes. Neither, is it needfull or would it be required that to effect this the King should transmitt one penny of silver hither; for the marchants would with all their hearts accept their moneye at London, and at such dayes as the copper money might first be melted downe and the silver extracted should be coyned again; so that they should be payd with their owne moneyes. This course is plain and clear, and wilbe grate-full and plausible to all the subjects here, and in some good measure be profitable to the King; for I can assure your Lp. others gaine by it; for the transporting of this money is the best returne that marchants make out of this kingdome, and, if it were utterly decried, the very bullion wold be more profitable and more currant then now the

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money itself is, or if it were decried to 2*d*., I think the people wold take it without proclamation.

Touching the course that is propounded and pursued heer for planting a learned ministery I have advertised my Lo. Lieutenant: but concerning the course of publick Justice it hath but a slowe proceeding, for the plague hath putt another thorne in the foot of the law, as the rebells were wont to say. And yet, if all things proceeded in due course, they want more English Judges, both in the King's Bench and Common Pleas; for there ar but two in either Court, and the second Judges are but weak, and yet their fees ar encreased to a good proportion, and their service is as important as the service of the Justices of the Benches of England, and requires men of as much sufficiency, or rather more, bycause in that kingdom the government is so well establishte as things doo themselves in a manner, but heer a disorderly people is to be drawne to obedience, by the wisdom and direction of the magistrate. I understand that you have added a Judge to every bench in England. You have a superfluous number of serjeants. I would the benches heer might be supplied with some of them; for we have not judges enow to supplie all the circuits conveniently, now Ulster is reduced; but if justice be well and roundly executed heer, but for two or three years, the kingdom will grow rich and happy, and in good faith, I think loiall; and wilbe no more like the leane cow in Pharaoe's dreame and devoure the fatt of your happy realme of England. I would Serjeant Heale might be banishte hither, if it be trew that he hath antedated the *scire facias*. I wish not this maliciously, like an ill angel that is fallen, and wold have all others in as desperate a case as himself; but I fear a heavier punishment will light

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vppon him, for I hope shortly to see this a rich and florishing kingdom. Thus with humble presentation of my duty and devotion to yr Lp. I leave the same to the divine preservation.—Dublin, 7 Martch 1603. Yr Lps in all humble duty John Dauys.*

The latter of the two letters before mentioned is dated April 19. 1604, and again is *literatim* as follows:—

My honorable good Lord:

I am not certen that my letters do come to your Lordship's hands; yet I presume they do, and therefore I presume [to] continew this duty; yet as often as I write, I do wish & pray that your Lordship may receave my letters in an instant of good leasure, for otherwise they cannot but be tedious and troblesome to your Lp.

This Lent the Chief Baron and myself have had a circuit or progresse over the greatest part of Leynster, as Justices of Assise and Gaol delivery, which hath given me a better light and overture of the state of things heer then I should have had if I had rested in one place. We had sessions in seaven severall shires, and in every of them we found many civill and substantiall gentlemen and freeholders, who understood and dispatchte their business in every way as well as Justices of peace or jurors do in England. The prisons were not very full, and yet the crimes whereof the prisoners stood accused were for the

*Hol. Pp. 3. Endd. Add.: "To the most Honorable my very good Lord, the Lord Cecylle," &c. (as before): S.P. Ireland, Vol. 216. 9.

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most part but petty thefts; but as for robberies by the highway, burglaries, & murders, it bred in vs both wonder and comfort to see the countrey so clear of those offenses. In a word, we found the publick peace well established within the Pale and countyes adjoining, especially in Lease [Leix] and Offaly, which, being the seate of the Moores and Connors, we expected to find most subject to disorder; but they being wel-ny distroyed and rooted out by the late warr, the English famelies that ar planted there begin to govern the country, and such of the Irishry as remayne, as M'Coghlan, O'Molloy, O'Doyn [O'Dunne], O'Dempsie, they seem to conforme themselves to a civill lif, and gave their attendance very dutifully.

Marry, when wee came to the county of Caterlough, the greatest part whereof is possesste by the sept of the Kavanaghs, whereof Donell Spaniagh thinks himself chief, and borders vppon the Birne's country, whereof the sonnes of Feagh M'Hugh are principall Lords, we understood that a great part of that shire and of the county of Wexford was spoild and and prayd upon by 80 or 100 armed kearne, commanded by one Edward M'Brian, and of the sept of the Birnes, and one James M'James Butler. My Lord Deputy hath sent a company or two of soldiers to suppresse them, but they will as soone take them as a hare with a tabor, for they have already scattred themselves, and ar fled into the Butlers countrey and into Mounster; but the soldiers shall be no sooner retired but they will swarme with a greater number in the same place.

But if Donald Spaniagh would but deserve his pension that he hath of the King, or if the sonnes of Feagh M'Hugh would do any service for their severall pardons which they have had, the gentlemen that are honest subjects of that

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countrey did assure vs that they can bring in their heades or their bodyes at their pleasure; for in their townes these vagabonds ar releeved; there they divide spoiles, and their countrey is the only mustring place or rendevous of all the discontented and loose persons in the kingdome. And certenly my Lord, the insolency of these mountayne kernes have ever bred in the Irishrie a skorne and contempt of the English Government; for they think it an easy matter to make a head in the north, or in Connaght, or in Mounster, when they perceave that, under the eie or nose of the State, a rabble of rude chorles continually affront and contemne the publick justice; and though they have been often fired out of their fastnes, yet they presently thereuppon obtayne their pardons, as if the State feared them and would be glad to pacifie them upon any terms. There ar not many weekes past since the Earl of Tirone, the Viscount Mountgarrett, Phelim M'Feaugh, Redmond M'Feaugh, and as I take it, Donel Spaniagh too, mett altogether at Carlow, and in their riott and drinking, swords were drawn, and mischeef was like to be done. And yet of themselves they grew friends again, and had conference together, but to what end I know not; only this dare affirm, that it was not to this end, that religion and peace might be establisht in this kingdom.

The Earl of Tirone is now at Dredagh [Drogheda], setled with his family; and, albeit he is poorer then ever he was, and that he and all his followers ar not able to manure the 20th part of his owne countrey, yet he takes leases of other mens lands intermixte with the lands of Terlogh M'Henry [O'Neil], his kinsman, who is now exempted from his seigniory and command; to the end, as I hear, he may find occasion of a quarrell and controversie with Tirlogh. Again,

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he seeks by order from the State to have all such tenants as formerly dwelt in his countrey (but ar now fled into the pale and other places to avoyd his extreame cutting and extortion), to be returned vnto him by compulsion; albeit those tenants had rather be strangled then return vnto him, for he wilbe maister both of their bodyes and goods, and exercise a greater tyranny now then he would have done if they had never departed. And yet it is certen that these tenants ar not his bondmen or villaynes, but the King's free subjects; for himself confesseth that, if they had given him a quarter or six moneths warning they might have departed lawfully, which, if they were bondmen or villaynes, they could not doe.

I know this demaund of his is not agreeable with the law of England, which is in force heer, neither standeth it (vnder reformation) with reason of State or policy that he should have such interests in the bodyes of the King's subjects; for this usurpation vppon the bodyes and persons of men made him able to make warr against the State of England, and made his barbarous followers to think they had no other King then Tirone, bycause their lives and their goods depended vppon his will. And certenly such tenants at will did enable the Earl of Warwick, in the tyme of Henry VI., and the great Lords in the tyme of the Barons' warres, to raise so great a multitude of men; whereas at this day if any of your great Lords of England should have a mind to stand vppon their guard, well may they have some of their household servants or retayners, or some few light-brayned factious gentlemen to follow them; but as for their tenants which have good leases for lives and good leases for years, or being but copyholders, seeing that by the law at this day they may bring an action

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of trespas against their Lords, if they dispossesse them without cause of forfeiture;—these fellows will not hazard the loosing of their sheep, their oxen, and their corne, and the undoing of themselves, their wives and children, for the love of the best landlord that is in England. I hope this next Parliament to see an Act passed in this land, that shall enjoyne every great Lord to make such certen and durable estates to his tenants, which wold be good for themselves, good for their tenants, and good for the commonwealth, for Interest reepublicæ quisque regna bene vtatur. I speake not this as if I thought the Earle durst ever returne to action of rebellion; for I know he is old and poore, and his country extremely depopulated, and that he is hatefull to every man in other parts of the kingdom, which felt the misery of the late warr, insomuch as when he past through the Pale the last day some gentlemen of the better sort did refuse to lodge him; yet this I think that he covetts exceedingly to hold his greatness in his old barbarous manner. Els why shold he desire so much to have the garrisons removd out of his countrey, or why shold he repine to have a sheriff appoynted in the county of Tyrone? And indeed as I understand there is no sherif appointed for this yeare in that county, but in the other shires of Vlster sherifs are nominated; though (God knowes) they have not much exercise of their office; for the form of English justice hath not been seen there these many yeares, vntil the Chief Baron, about nine monethes since, visited some part of that province; but if God will, within these few weekes, (bycause this Easter Terme is also adjourned) Mr. Chief Baron and myself shall take our journey northwards, to hear and determine matters among that rude people, which were exceedingly delighted (as the

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Chief Baron tells me) with his coming thither the last summer; and trewly that province doth need a visitation of justice; for in Tireconnell, Neal Garve O'Donnell, taking opportunity of the Earle of Tireconnell's absence, hath gotten many followers, and hath possest himself of the tenants and heards of cattle, and is growne so strong as the Earle, I think, holds it not safe to return thither, but lyes heer within the Pale, very meanly followed.

In Fermanagh, which is M'Guyre's country, Coconaught, the brother of Hugh M'Guyre, which was slayne in rebellion, and O'Connor Roe M'Guyre, whose service my Lord Lieutenant vsed against them bothe, in a manner make ofen warr one against the other, and have had severall encounters and men slayne on both sides, bycause young Coconaught mislikes the division of the countrey which the State made betwixt them, albeit he did once assent thereunto. In Down and Antrym, there is a wild kearne, who they say is a Scottish-Irish; they call him Gillasfech (Gillespie) M'Alexander, who, with threescore or fourscore men at his heeles, spoiles and wasts the countrey. But we expect shortly that Sir Arthur Chichester, who is lately returned toward Knockfergus, will scatter and suppresse them.

This is the state of Ulster; for Mounster and Conaught, I do not hear but that those provinces ar quiet, and I understand that in Connavght my Lord of Clanricard hath disarmed all the kearne and swordmen. If the like were done elsewhere, I dobt not but in a short tyme so secure a peace wold follow, as the King shall need to nourish but a small army heer. Many things want reformation, which I dobt not had been redressed er this, if the sicknes had not scattred the Consell of State and interrupted the course of

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publick justice; but if we might heere see a Parliament holden, the churches re-edified, a learned ministry planted, more judges sitting in the courts of justice, and the lawes roundly executed but for one year, I do verily beleeve this nation would be in some good measure happy, and have a tast and a feeling of that happines, and wold be as willing to be ruld as the people of England.

And for the matter of relligion, I will not bellieve but that if the churches were builded again (for they ar all ruined in every place that I have seen), and divine service said in them, the greater part of the common people would presently and voluntarily come to church; for though the apostacy of the gentlemen and marchants be great, yet is not so generall of all the commons as they talk of; but it is the negligence and ignorance of our owne (Protestant) clergy heer that hath caused this disposition, more then the insinuation and dilligence of the priests and Jesuits, who were not sent thither only to plant their relligion heer, but to withdraw the subject from his allegeance, and so serve the turnes of Tirone and the King of Spain; which cause now ceasing, they would with all their hearts leave this miserable countrey, and would be glad to hear of a proclamation of banishment, that they might have a good excuse to depart. FitzSimons, the priest, now prisoner in the castle, did, (as yor Lordship knows,) make suit to be banisht; and I assure myself the rest wold be well pleasd to be gone with him; for they that go up and down the Crosse of Tipperary gett nothing but bacon and oatmeale, the people ar so poor.

Thus far have I presumed to interrupt your Lordship's great busines with my trifling advertisements, hoping notwithstanding that your Lp. according to your wonted noble

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nature, will accept these relations in good part vntill longer experience in this kingdom shall give me judgment to give your Lp. better intelligence; and so I humbly take my leave and leave your Lp. to the divine preservation.—Dublin, 19 April 1604. Yr Lp in all humble duty Jo. DAUYS.*

Other letters of this busy year and a half, or thereabobts, speak for themselves of Davies's consecration to duty and unsleeping watchfulness and modest giving of counsell. They all follow here successively, as before, to Cecil.

It may please yr Lp. as there ar but few weeks past since I gave my last letter vnto your Lp: so the occurrents that have risen since ar but few, but those but of small importance. Yet, bycause it imports me much in poynt of duty to performe a continuall service of this kind vnto yr Lp., I have apprehended this opportunity to give letters to your Lp. by the hands of this gentleman, though the matter and subject thereof be of no great consequence.

The first and freshest accident that comes to my remembrance at this tyme, is the maior of Dublin's refusall of the oath of supremacy, whereof I conjecture yor. Lp. hath heard er this; but bycause the manner of the refusall was worse (in my opinion) then the refusall it self, I will præsume to troble your Lp. with the repetition of the circumstance. One Shelton, being elected maior for this year, should (by the auncient custome) have taken the oath, both of his office and of supremacy, in the Exchequer at Dublin; but, by reason of the contagion, the Barons of

*Pp. 6. *Sealed. Endd. by Cecil's clerk. Add.:* "Solicitor of Ireland to Cecil." Addd. *as before.* S. P. Ireland, Vol. 216, 15.

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the Exchequer were absent at the vsuall tyme of his election, therefore he tooke the oath of his office only before his predecessor and the aldermen. Heere vppon the priests (which swarme in this Towne) and others, gaue out that the maior was the only champion of the Catholiq relligion, for he only had refused to take the oath which all his predecessors had yeelded to take. My Lord Deputy, being advertised of this report, awarded a commission to the Lord Chauncellor and Cheef Baron to call the maior before them and offer him the oath of supremacy, according to the statut of 2° Eliz. The commissioners came both to Dublin and, sitting in the Exchequer, sent to the maior, to whom they caused the usuall oath to be read, and therevpon demaunded of him if he wold take the same. His answer was that he would not refuse the oath, but he desired some respit of tyme to consider thereof, and to resolve his conscience. The commissioners were pleased to grant him that favour, and præfixed him a new day. In the meane-time he had conference with Dr. Chaloner, a learned divine and a zealous Protestant; upon which conference the maior did seem to be fully satisfied that he might with a safe conscience take the oath, and to be resolv'd likewise touching divers other points of relligion, in so much that he sent word to my Lord Deputy that Dr. Chaloner had given him satisfaction, and that at the day appoynted he wold be ready to p'forme his duty, touching the oath. At that day the Cheef Baron only was præsent in the Exchequer, my Lord Chancellor being absent by reason of some indisposition in his health. The maior, being sent for came, and, when we all expected that he wold have receaved the oath without scruple or question, he came thither prepared to argue the matter. And first he made a doubt whether the

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law did require this oath to the King's Matie that now is, bycause the words of the oath expressed in the statute ar, that the Queene's highnes is the only supreme governor over all persons, and in all causes, &c. and so the force of this law ceased vppon her decease. But when answer was made vnto him, that by the word Queen, the politiq roiall body was intended, which never dieth, he insisted no more vppon that poynt, but offred a forme of an oath in writing, which he said he was ready to take, wherein he acknowledged the King to be supreame governour over all persons, aswell ecclesiasticall as temporall, but not over all causes, &c.; this oath, he said, was agreeable to certayne injunctions published by the late Queen, which injunctions, when they were viewed, it appeared that he did wilfully and absurdly misinterpret them, therevppon the Chief Baron, being not a little displeased with his inconstant and fond cariage in this busines, did peremptorily offer him the vsuall oath, which he refused to take. Wherevppon the Chief Baron returned the commission instantly, and advertised my Lord Deputy thereof, who, sending for the aldermen, commanded them to make a new election, because this maior had forfeited his office by the expresse words of this statute of 2° Eliz. Accordingly, the aldermen did proceed to a new election, and choose one who without contradiction, took that oath; and these ar the true circumstances of that occurrent. I understand since that Shelton repents him of this refusall, which I doo easily believe; bycause I hear that immediately after his conference with Dr. Chaloner, divers of the preists and Jesuits which haunt this town repaired vnto him, and partly with entreaty and partly with threates, prevayled with him so farr as he altered his resolution, and by their instruction made the

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argument which I have before remembred.

I do the rather sett forth this accident at large, to demonstrate vnto yor Lp. that this people wold for the most part submitt themselves willingly to our government and become obedient subjects, if the preists and Jesuits were banished the realm, which may easily be done by a proclamation. For albeit we have not such penall lawes against them heer as in England, yet, if His Majestie's will and pleasure were published that they shold depart the realme, many of them wold be gone very willingly, that they might have good colour to begg and seeke preferment in the richer parts of Christendom; whereas heer they live but in sluttish beggary; and for the rest either they will retire into corners, and so be restrayned from doing so much mischief as now they doo, having free accesse to all places: or, if they can be apprehended, they may either be imprisoned heer or els sent into England, where the penall lawes will take hold of their persons. By this means we shall meet with divers preists and Jesuits, that being banishte out of England ar arrived heere, and doo much hurt, and then if learned and industrious ministers may be sent out [of] England, (for this kingdom hath no workmen for this harvest,—for the bishop of Kildare told me that there are 12 benefices or more, of good value, voyd in his diocese, for which he can find no sufficient clarkes to fill the same), I make no dobt (as I have often written) but the most part of all the people wold come to church, and become conformable every way with the civill government heer.

Yet we find not that the difference of relligion doth breed any great disorder; only those accidents have fallen out within these two or three moneths. In Westmeath, a

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minister was interrupted in the buriall of the dead, for which misdemeanor the parties delinquent ar now prisoners in the castle of Dublin. At Kilkenny, an outrage was committed upon the person of the Deane of that cathedrall church, the quarrell arising likewise abot the buriall of the dead; but, vppon examination, the Deane was in some fault. At Limerick, a preist being arrested by warrant from the Lord President of Mounster, was violently rescued, but no other harme done. These little particulars I thought meet to signify to yr Lp., that you may make your judgment vppon them; but for all this, I am fully persuaded, that if the preists were banished, the people would quickly be reclaymed. The peace of this kingdom (God be thanked) doth continue. In the Pale wee ar all quiett, but that the theeves of the mountaynes do infest the borders of the countyes of Dublin and Kildare; which, if Sir Harry Harrington's liberty were not a colour to keep the Judges of Assize from visiting those parts, wold easily be reformed. Wee had a commission to sitt there, made out vnder the great seale since Michaelmas, yet I know not how, it was revoked again, and the execution thereof stayed, to the great discomfort of all the country.

For Connaght, I was there myself within these two moneths, and was præsent with my Lord of Clanrickard at a session holden at Galloway, where I found the people as civill and more obedient then our neighbours of the Pale; and where I saw the extraordinory industry and judgment of the Earle in dispatch of the busines he had in hand. His affability and good temper wins him great love and respect among them; but I must confesse he is so weakly assisted with a counsell there, as I was sorry and ashamed to see it. I was with his Lp. at Athlone, where his lady,

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being then big with child, and now delivered of a son, then lay. I observ'd the order of their house and their manner of living; I do assure yr Lp. it was a very honourable fashion, and I saw my Lady of Essex (I shold say Clanricard) very well contented, and every way as well served as ever I saw her in England. I write this bycause it was otherwise reported, both heer and in England.

For the North, there is no part so quiet and voyd of theeves as my Lord of Tirone's country, and none so disordred as Tireconnell, where the sherif is vtterly disobeyed, and where now there are divers loose kerne in actuall rebellion.

I should advertise yr Lp. more particularly, but the hast of this gentleman interrupts me, and therefore humbly craving pardon far this abrupt end of my letter, I commend my humble devotion to yr Lp. and take my leave 8 December 1604. Yr Lps in all humble dutyes

Jo: Davys.

My Lord of Ormond had a fitt of an apoplexy, and was senseles and reputed dead, about ten days since, but we hear he is in some good measure recovered nowe.*

. . . . . .

May it please yr Lp.

I can give yr Lp. no certayn advertisement of things now, bycause the stay or proceeding of the State busines at this time doth depend altogether upon the wind; which hath stood so long in a poynt contrary and adverse to the

* *Pp.* 4. *Signed. Endd.:* "Sir John Davyes to Cecyll," and a vidimus, of the contents: S.P. Ireland, Vol. 216. 54.

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passage out of England, as the packet directed to Sir Arthur Chichester, being dated in October, arrived not heer till the end of December. And the other letters given to the Lord Deputy and Counsell, by the hands of Jo. Bingley (wherevnto Sir Arthur's letter hath relacion), ar yet expected; for Jo. Bingley having putt to sea vppon Christmas eue, was driven back by a tempest, and hath not since been heard of. Sir Arthur being come vp from Knockfergus is lodged in my Lord Deputye's house, where he continues private, not purposing to receuve the sword untill Jo. Bingley's arrivall; yet, in the meanetyme, he acquaint himself with all the letters and instrucions of State which remayne in the Lord Deputye's hands; and according to his wonted extraordinary care and diligence, makes entry of every particular letter and busines in a booke which he keepes for that purpose. Since his coming, he hath frankly and playnly (as his manner and nature is) told my Lord Deputy what the world thinks and speakes of some things that have passed in his government; which hath putt his Lordship into some passion and troble of mind; but that which doth perplex him most of all is the report that is made vnto him of my Lord Lieutenant's distast and displeasure towards him. The cause whereof wee understand to bee some passionate speeches vttred by him in the hearing of some, which have made the worst interpretation of them. Wherein albeit there were matter of unkindnes, viz., that my Lord Lieutenant would doo nothing for him, which was touching the degree of honor which (as wee hear) hee expected in England, and with all matter of exprobration; that if hee had not been provident and diligent, his Lordship had not been so well supplied and seconded in his martiall actions in this kingdom. Al-

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though some speeches to this effect (as I hear) fell from him which were vnfitt and distastfull in respect of the difference of the persons and other circumstances; yet I verily believe that his love and affection were ever rectified and sound towards his Lp. and that such speeches (if any such were) did rather proceed from false intelligence of his ministers and from aboundance of choler or melancholy or other imperfections of old age, than *ex abundantia cordis*. I speak not this (as if the report of leave to this man, were in any degree comparable to the devotion I beare to my Lo. Lieutenant) but that your Lp. shold be informed of the truth (as I conceave it) and therevppon (if yr Lp. will vouchsafe it) performe a noble office of reconciliation, that this old gentleman, being 70 yeares of age, and having supplied this place, even by my Lord Lieutenant's own assignation, may returne into his country and descend into his grave in peace, without disgrace. And withall I humbly beseech yr Lp. to pardon my boldnes in presuming to write of this particular matter. Touching the publick affairs of this kingdome, there wilbe no consultation of Parliament matters untill the letters which remayne in the hands of John Bingley be seen. Besides the bishops and judges who ar to deliberate of those businesses, ar scattered abroad in the countrey and will not repair hither till the begginning of the terme, which (wee hope) will hold heer at Dublin, bycause the sicknes, God be blessed, is welnigh ceased, so (as I dobt) we shall not bring matters to any ripenes till the beginning of March, but by that tyme, I can conjecture, wee shalbe ready to come for England.

In the meantime I humbly pray your Lp. to give me licence to signify vnto yr Lp. my poor opinion touching the

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matter of religion, which is, that wee shall not need to offer vnto the obstinate gentlemen of the Pale, any more lawes to make them conformable, then such as wee have already, if the bishops will performe their dutyes; for if they will excommunicate all such as will not come to church, the common law doth imprison them without bayle or mainprize, which is much better then the censure of the High Commission, where there was much abuse and corruption, to the reproach of our religion and dishonor of the State; as for the priests and Jesuits, wee desire only a proclamation to banish them, which they themselves expect, and doo only attend for the publishing thereof. For within these few weeks one of the freeres of Multifernon [Multifarnham] in Westmeath (where a monastory or college of freeres was boldly erected again althogh it bee within the Pale, vntill my Lo. Deputy caused the freeres to bee arrested and broght to the castle of Dublin) one of these freeres which was not taken, came to the castle of Dublin to visitt his fellowes, where being stayd by the constable, and demanded how he durst come into the King's castle? his answer was, that he prœsumed he might come to any place within the kingdom vntill the proclamation of their banishment were made, which they expected shortly, and then they wold willingly depart the realme; but if they shall not depart vppon the proclamation, wee doubt not (as I have formerly written) but wee shall make their persons liable to the pœnal lawes of England, which do banish them out of England and all other the Queene's dominions, and make them traitors if they returne into England or any other of the Queene's dominions. As for the common people, I am still persuaded (as I have often written) that they wold willingly come to church if they had

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churches and churchmen to performe ecclesiasticall dutyes. For the week before Christmas, Sir James Ley and myself held a session at the fort of Leix; and there, among other petitions, wee receaved one from a sept of the Mores, wherein they complayned that they had no churches or priest to marry or bury or baptise among them; and desired vs to take order therein, promising by their petition ever after duly to frequent the church. Wee were glad to see their forwardnes in this behalf, and therevppon tooke order that the vicar of Mariborough shold every Friday say divine service neer the ruines of an old church within their parish, and that he shold receave a certain portion of tithes for his travayle.

Touching the revenew from henceforth, if God permitt us to live heer at Dublin, I will employ all studyes and endevours for the encrease thereof and perpetually sollicitt the Deputy and Counsell to advance the same. The Earle of Tirone was heer this last week and proferd some complaynts against Harry Oge, touching the removing and detayning of tenants, which is the principall busines that these northren Lords ar trobled withall. He hath lately sent into Spain to revoke his second sonne, who was sent thither during the rebellion; but he hath receaved an answer from him that he understands his father's country is wast and poore, and therefore he desires to spend a yeare or two more in foren countryes, and that he hath purpose to pass out of Spain into the Lowe Country to serve in the warrs there against the States. Herewithall the Earle seems to bee trobled, being dobtful and jelous lest the State of Ingland shold interpret it amisse, and therefore as he says, he hath written back vnto him, that if he will not presently return hither, hee will never give him one foot of

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land heer. I wold that Sir Patrick Barnwall and the rest of our gentlemen within the Pale were as ready to revoke their sonnes from beyond sea. Thus with the humble presentation of duty and service, I leaue yr Lp. to the divine preservation.—Dublin, 6 January, 1605. Yr Lps. in all humble dutyes to honor & serve you, Jo. Davys.*

. . . . . .

It may please yr Lp.

The opportunity wch I had to giue letters to yr Lp. when the late Lord Deputy went for England, was not neglected by me, but vnhappily lost by reason of his suddayn departure, which though it was long lookt for yet fell it out in an instant of tyme vnexpected.

Since this present Lord Deputy receaved the sword, hee hath been trobled with swarmes of suitors, which, by reason of the late contagion and retiredness of the late Lord Deputy, could not before this tyme have their dispatch. His Lordship is so carefull & industrious, as I doubt he will alter his health by his continuall labour and intention of mind. His Lp. & the Counsell now at length ar entered into consultation touching Parliament matters, according to His Majestie's direction given in October last. There ar many things considerable, which will require many meetings er they bee digested & brought to a maturity to bee advertised into England, wherein though every counsellor will give his Judgment yet the labour of consert-

*Pp. 5. *Hol. Sealed. Add. Endd.*: "Sir John Davies to Viscount Cranborne," & vidimus of contents. S. P. Ireland, Vol. 217, 2.

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ing & disposing is imposed vppon one or two of our Robe. I am yet uncerteyn when I shall bee sent away, because Sir Richard Cooke, with whom I am appoynted to come over, is now sick of a languishing infirmity, wherewith he hath been greeved these six moneths past, and so is vtterly unable to travayle till the beginning of Aprill, at the soonest, and then the recovery of his strength and health is doubtfull too. In the meanetyme, bycause the Judges will be scattred in their circuits about ten days hence, before which tyme our instructions willbe ready, (though wee shall not bee ready by reason of the forsaid impediment), I am assigned to go with the Cheef Justice into Kilkenny and Wexford, from whence I shall not returne before the middest of March. There ar certain Commissioners appoynted to go into Vlster this Lent, which province is divided into three circuits; but bycause wee want a competent number of Judges to supply every circuit, wee ar faine to imploy among others, the Recorders of Dublin and Drohedagh, being notorious recusants, and one of them (as wee hear) a lay brother of the Jesuites. I have often been an humble suitor to yr Lp. that the number of our Judges might be encreased, and to that end Mr. Cheef Justice and myself prevayled so far with the late Lord Deputy as that he made two very honest and sufficient gentlemen justices of the one Bench and of the other, and hath carried their patents into England, although the patentees know nothing thereof. He did it not without example and autority; for there have been 3 Justices of either Bench before; and the Deputy hath power to grant those inferior places, being voyd. Wee conceave a hope that his Majestie will give allowance thereof, but I doubt least the partyes, being men so able as we know them to bee, willbe

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vnwilling to accept these poore places, especially if they shall vnderstand the slow payments that ar made of these little intertaynments, which his Maiestie doth allow to his servitors heer. I speak not this for mine particular, though I have travayled a thousand miles at least, since I came into this kingdom vppon my owne charges, for which I never reccaved one farthing vppon any concideration; but I speake in their behalf, who ar lesse able to beare the charge or forbeare their wages. For myself I have not many depending upon mee, & I receave extraordinary comfort and encouragement by the acceptance and good interpretation which yr Lp. doth vouchsafe to make of my willingnes to doo my duty in this kingdom. I have within these few days receaved a letter from yr Lp. wherein you have made demonstration of your especiall care & providence both for the Church & Commonwealth heer, & withall of more respect and favour to mee then I find my self worthy of. I can give no other retribution then my vowes and prayers to God for you.

I shall not need at this tyme to give any notes vnto your Lp. of the stafe of things in generall, for the Lord Deputy and Counsell of State, ar now preparing an vniversall advertisement, which I hope er it be long to putt into yr Lps owne hands. Only I cannot but signify this particular, that our Lord Chancellor is growne so weake as he is like to leave his place voyd very shortly. Wee humbly beseech yr Lp. to bee an autor & a meane that this principall place bee supplied by a principall man of gravity, experience, and learning in the lawes of the realme; for this kingdom is not to bee ruled by grammar rules, nor moral philosophy, nor by the examples of the Romans or Grecians, but by that policy and those laws which have made England one

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of the best commonwealths in Christendom; and therefore such a one as is *Civis in aliena republica, et hospes in nostra.* If he bee advanced to the place of Chiefe Counsellor of this State next to the King's Deputy, [he] is like to prove stiff & peremptory and wedded to his owne conceite, and impressions; and so will many tymes crosse & thwart the uniforme proceeding which is intended for the reparation of this broken kingdome. I write this bycause I hear that some one of the like quality is a suiter for this place in reversion; not that I wish any particular frend of mine were preferd to that office, but bycause the common good doth wholly depend upon the good choise of the officers & ministers, I doo exceedingly desire that such an eminent place may bee suplied with a person well qualified for the same.

There is not any notorious theef or wood kerne now stirring in any part of Ireland, but only one Collo M'Hugh M'Mahon, in the county of Monahan, who is lately gone out into the woods with 12 or 16 loose fellows at his heeles, being guilty of a murder of one of his kinsmen. My Lord Deputy hath sent a company of foot to scatter them (though as things stand yet, they ar little more to bee feared then so many gipsons in England). Thus with the offer of my humble duty and service to yr Lp. I leave yr Lp. to the divine prœservation, & rest yr Lps most particularly devoted Jo. Dauys.* Dublin, 24th February, 1604-5.

The State Papers (in Vol. IId. of these his Prose Works) remain to attest the public activities the

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* *Pp.* 4. *Hol. Endd.:* "Sir John Davyes to Cecyll." PS.: Vol. 217. 11.

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"toilsome travels" of our Worthy 'on circuit.'* In our judgment these 'Reports' are very remarkable in every way. What force there must have been in the man who bore so lightly such accumulated responsibilites and variety of service! I cannot conceive any one thoughtfully studying these public documents in combination with the more private letters, without coming to the conclusion that in Sir John Davies Ireland had a statesman who sought her good and held England to her obligations towards Ireland with fine insistence and based on luminous evidence. In 1605 he paid a hurried visit to London, and had interviews and discussions with the Government. He soon returned; and his correspondence was resumed, in the following letter—dated October 5th 1605:—

My most honorable good Lord.

By these letters y^r Lp. shall rather perceave the desire I have to continew my duty and service in this kind, then receave any advertisement of importance, for since my last

* These are the words of Sir Arthur Chichester to Cranbourne on April 3, 1605 in sending Davies and Sir Richard Cooke over to London: S.P. Ireland, Vol. 217. 24. Another letter viz. of the Lords of the Council to Chichester and Council highly appreciates Davies's services: Philadelphia P. Vol. 3. p 37 and urges payment of his arrears.

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arrivall, which was about the 10th of September, there have risen few or no occurrents worthy of yr Lps. knowledge or consideration. For though my Lord Deputy had ended his northren circuit, yet hee resided still at Dundalk, being doubtfuil to returne to Dublin bycause the infection began to encrease again; so as his Lordship being removed 40 English [miles] from the rest of the Counsell who were return'd to Dublin, the distance of place between them did cause a slow motion of publick businesses. But since his Lordship came to Howth, where he then remayneth very ill accommodated, there have been two or three meetings of the Counsell, and some orders have been taken and some dispatches made. They have adjourned the terme till All Hallow-tide, by reason of the contagion, which is now only in the subvrbs, but bycause the house of our Cheef Justice hath been visited and one of his servants dead, which hath enforced him with the rest of his famely to retire into the countrey; the bruit and fame of the sicknes was much encreased, though the number of them that dy doth indeed decrease. They have likewise publisht the proclamation sent out of England commanding the people to come to church, and banishing the priests and Jesuites. Of this, as yet, wee see little effect, and if the sicknes continew it will hinder the execution of this proclamation very much; and yet I cannot but noate unto yr Lp. that yesterday, being Sunday, notwithstanding the plague and the absence of the Lord Deputy and divers of the Counsell, I saw at the sermon seaven aldermen besides the maior, and 400 other persons at least, of all sorts; which is a greater number then I have seen at any tyme since I came into the kingdome, even when the Lord Deputy and Counsell with all their traynes were present. I find the State heer very well

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satisfied with the dispatches that came out of England before my returne; onlp they rest vnsatisfied touching the alteration of the standart of moneys, and blame me for doing nothing therein. I told them that I often mov'd my Lord Lieutentant in that behalf, who still answerd me that as yet the tyme served not, but that hee would not forgett to move it effectually in a fitt and seasonable tyme; and that er long we shold vnderstand what might be donne in itt. Assuredly Sir, if this matter be clearely vnderstood, as things now stand, the army being reduced to so small a number, the reducing of the 9d. to the trew valew would rather advantage then prejudice the King, and give a singular contentment to all the subjects. I speak not for mine own particular, for they make mee keep the vow of a Carthusian freere, that is, I must touch none of the Prince's money; and yet I humbly thank yr Lp. I was not forgotte in those letters which I brought from yr Lp., but howsoever things succeed with mee, I wish much good to the commonwealthe of this kingdome, and therefore I do humbly beseech yr Lp. to bee a meane that the good and able judges which were intended to bee sent hither, may be heer ready to supply the circuits in Lent, and that our Chancellor that shalbee, may (if it be possible) bee a common lawyer; and so I do most devoutly beseech Almighty God to preserve yr Lp. in health and honor. Yr Lps. most humbly and faithfully to serve you, Jo. Dauys.—Dublin, 5 October 1605.*

**Hol. Pp.* 2. *Sealed.* Add. *Endd.*: "Davis to Salisbury." S.P. Ireland, Vol. 217-74.

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At this point there falls to be introduced a "Speech at the Censuring of the Recusants" and which sheds light on various of the 'reports' in the Circuit State-Papers. It is here re-printed from the Calendar as derived from the Carte Papers (Vol. 61. p 117):—

The effect of a Speech delivered by one of the King's learned Counsel in the Court of Castle Chamber, when the recusants of Dublin were called to answer their contempts against the King's proclamations and special mandates, whereby they were commanded to come to the church.

The Attorney-General shortly charged them with their several contempts, and thereupon moved the court to proceed to a censure. Another of the King's counsel, thinking it fit that the cause should be handled with a little more solemnity, because both the assembly of people and the expectation of the business was exceeding great, and being desirous withal to justify the proceeding itself, because expectation had been taken against it, delivered a speech to this effect:

First, because riots, perjuries, forgeries, extortions, unlawful maintenance, and the like causes within the jurisdiction of the Court principally concern the subject, and touch the King but indirectly; but the offences with which these were charged were done against the King's person:

He would not, however, aggravate the offences, but proceed rather to defend the proceedings. Though it was not for subjects to question the preregative royal in matters of government, such as the King should command by proclamations, yet he [Sir John] would proceed to prove

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that the King's mandates directing men to come to church were grounded on good examples, and upon the good ancient laws governing both kingdoms, ever since their several conquests; for the prerogative of the King in matters ecclesiastical is no new thing, invented in the time of Hen. VIII., Edward VI., or Queen Elizabeth, but had been a flower of the Crown from the beginning, ever since any church had been planted in England or Ireland. To begin with plain and evident reason;—without it, he would be but half a King, if his subjects, instead of appealing to him, must be fain to appeal to some foreign oracle or power. In 10 Hen. VIII. it is said *Rex est mixta persona cum sacerdote*, and in 33 Ed. III. it is said *Reges sacro oleo uncti spiritualis jurisdictionis sunt capaces*. According to these rules, tithes, which are now spiritual duties, were in some cases payable to the King;—namely, out of such lands as were not within the limits of any parish, as it appeareth in the book 22nd Assize. He was supreme patron of all archbishopricks and bishopricks (which he was wont to bestow immediately *per annulum et baculum*, without any canonical election, and afterwards when he admitted election, he ever reserved a royal assent to himself), but he was also supreme ordinary; and therefore if a church became void, and the patron lapsed his time of presentation, the Bishop then presented; and if the Bishop lapsed, then the Archbishop; and if he, the King. By the ancient laws, all Ecclesiastical Courts are subject to the King's commands. It appears, primo Hen. VII., that a King before the conquest did exempt the Abbot of Culham from Episcopal jurisdiction; and in 17° Ed. I., that the King granted episcopal jurisdiction to the Archdeacon of Richmond. It appears in 20° Ed. III., that all spiritual or religious houses of the

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King's foundation were free from episcopal jurisdiction, and visitable only by the King's commissioners. Lastly, in 7° Elizabeth, he found that the King alone made appropriations of churches. In 49th Assize, the King alone made the Prior of Westminster secular, who before was regular. In 9° Hen. VII., the King alone (and at that day) could found a spiritual corporation. In 1° Hen. VII. the King alone, (and at that day but the King), could grant to a place the privilege of sanctuary. And as the law had given the King this power and jurisdiction, so had it excluded all foreign princes and prelates, and particularly the Bishop of Rome; for in the statute of Premunire, enacted 16° Rich. II., it is recited that the Crown of England had ever been free, and the statutes of that realm were not to be submitted to the Bishop of Rome, to be defeated at his pleasure. That was the voice of the people in open Parliament at that time. Before the statute of Premunire, the ancient common law was, that whoever brought a bull of excommunication against any of the King's subjects, was adjudged a traitor, as it was reported in 30th Assize. King Edward I. would have had him down and hanged, but, by the intercession of the Chancellor and Treasurer, he was permitted instead to abjure the realm. In his time the Archbishop of York lost his temporalities for refusing to admit the King's clerk to a living, alleging it was full before by provision from the Pope. Though a person excommunicated by the Bishop is incapable of bringing an action, yet whenever the Pope's excommunication under the leaden seal was shown forth in the courts, it was never allowed, as in 30 Assize, in 12° Hen. IV., in 4° Hen. IV., in 8° Hen. VI.

Thus the law utterly excluded the Pope. He [Sir John]

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spoke not of the laws made in Henry VIII.'s time or since, but of the old common law and statute law, for 400 years before King Henry VIII. was born. The judges who expounded those laws were not Protestants, but old Popish judges learned in the Canon law. Not one King since the Norman Conquest but had claimed and used that authority. Rufus and Hen. I., sons of the Conqueror, bestowed bishopricks and abbeys without the Pope's leave or confirmation. Thomas à Becket opposed Hen. II., and yet he subscribed the constitution made at Clarendon, though he afterwards became a champion for the Pope, and suffered a violent death; but had he been indicted, arraigned, and executed as a traitor, the King might have justified it to the world.*

Following on this Speech come other two Letters, on the same lines. They are again taken from the original MSS. *literatim*. The former is without date but belongs to 1605. It thus runs:—

My most honorable good Lord.

The principall busines that is now in motion heer, is the reducing of the people of this towne to church. For this [Dublin] being the principall citty and seate of the State, all the eies of the kingdome ar turned vppon it, expecting the euent of our proceedings heer; so as we presume the people of other parts wilbee much lead and transported one

* *Pp.* 8. *Orig. Not endd. Hol. of Sir John Davys: Calendar pp* 350-52.

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way or tother by the example of this place. For if these men which live vnder the eie and elbow of the State be sufferd to contenew and oppose the King's commandments with impunity, assuredly the greater part of such as live in the Pale or provinces, will the more boldly continew in their recusancy. But on the other side, if this towne be reduced to conformity by a round and constant course (which was never vndertaken till now) doubtles the example will prevayle effectually with all the other parts of the kingdome. What hath been done this last terme (whereof the two last returnes were only holden) doth appear vnto yr Lp. by the enclosed copy of the decree in the Star Chamber, which was made against divers of the principall recusants of this citty. This manner of proceeding, as it was iust, and justified to bee so both by law and president at the hearing, so was it necessary in this kingdome, bycause wee have not heer the pænal lawes which ar in England, imposing the forfiture of 20*l.* a moneth and the like, and therefore wee were faine to resort to this prærogative course, warrantable by the common lawes of the realm. The priests and Jesuites were full of rage and malice bycause their tyme is but short; insomuch as their instigation hath produced that seditious or giant-like peticion with hundreds of hands, whereof I am assured yr Lp. hath receaved a coppy from my Lord Deputy. The devisers and inditers of it ar found to bee Sir Patrick Barnwall, Rich. Netterfeild, and old Burnell the lawyer. Sir James Dillon and one Finglas did deliver itt. The yong Viscount of Gormanston was sett on importunately and peremptorily to crave an answer of it of my Lord Deputy. Of these Sir Patrick Barnewall (who confidently mayntaynes and justifies his doing heerin), is committed to the Castle at

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Dublin.* Mr. Netterfield and Mr. Burnell, by reason of their age and more temperate carriage when they were called before the Counsell, ar confined to their houses in the countrey, and bound to appeare the first sitting in the Star Chamber the next terme. The Viscount and other two gentlemen ar likewise committed to the Castle. I do not conceave that the State heer doth take this course to prævent any motion or stirr of the people; for there is no cause or colour of cause to doubt any such matter; for these gentlemen of the Pale, as they have good estates and lands which they were loath to forfeit, so they have no money nor other meanes to make a war, which, if they had meanes to begin, they know would end with their vtter ruin. Besides, they have not a man of spirit or greatness among them to undertake such a matter; and lastly, they know that the commons generally, and specially the Irishry, ar better affected to the Crowne at this tyme then in any age heeretofore, so as wee rest secure for matter of rebellion. Yet, bycause this petition did seem rather to terrify then entreat in respect of the multitude of hands, and bycause it was devised and penned in termes peremptory and insolent by some few, and by them a great number of simple gentlemen drawne to putt to their hands, so as both the matter and manner did seem factious and seditious, and bycause it did concur with the tyme of that accursed and damnable plott should have been executed in England, the like whereof the divill did never devise since he was first cast out of the presence of God, it hath been thought meet to restrayne the principall actors, and if direction come not

* See the Lord Deputy's letter (*Calendar, supra*, p. 367), for the same incidents, with some differences of detail.

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to the contrary, to proceed against them in the Star Chamber next terme; which Court of Star Chamber, if the power and jurisdiction of it be mayntayned and vsed as it is begun, will prove the best schoole to teach the people obedience that ever was erected at kingdome.

Touching this work of reformation, I meane the bringing of the people to church, the State is engaged in it; and it must be constantly pursued, or els we must ever heerafter dispair to doo anything in itt. It may seem to have "*difficiles aditus*," but I am strongly persuaded that it will have a generall good successe: for the Irishry, priests, and people, & all will come to church. My Lord Deputy tells mee the priests within this government of Knockfergus have for the most part taken the oath of supremacy; and Sir Foulk Conwey, the Deputy Governor there, tells me that, since the proclamation [was] publisht, they came unto him and offred to conforme themselves. The like is to be præsumed of the multitude in generall throughout the kingdome; for so it happened in King Edward the Sixth his dayes, when more then half the kingdom of England were papists; and again in the tyme of Queen Mary, when more then half the kingdom were Protestants; and again in Queen Elizabeth's tyme, when they were turned Papists again.

The multitude was ever made conformable by edicts and proclamations; and though the corporations in this realme and certen of the principall gentlemen stand out, and the multitude only by their example, yet if this one corporation of Dublin bee reformed, the rest will follow; and if those gentlemen that ar now in the Castle be reduced, the whole Pale will be brought to conformity. Therefore I humbly beseech y^r Lp. not to dispair of the successe of this busines, though there be some opposition at the first. There is no

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man in this kingdome hath had such cause to wish it had never been attempted as myself: for I am more maliciously hated and ill spoken of then all the rest, bycause they think the proclamation was procured only by my sollicitation when I was in England. In this I was a prophet; for I was bold once to say as much to yr Lp., when you told me again that I was but a minister and servant of the State, and therefore they would never impute itt unto mee; but my Lord, I find it otherwise, and feele the effects of the people's mislike in the practise of my profession. This is but a matter of discomodity, but I have besides some cause of discomfort & discoragment in respect that since my returne I have been lesse respected by the State heer then ever I was in former tyme. I will not bewray so much discontentment as to troble yr Lp. with particular instances. I only beseech yr Lp. upon the next occasion, to give me some little sunbeame or reflection of grace or countenance out of England, to revive my reputation somewhat amongst them.

I am sorry I have written so much of myself; therefore, to returne to the publick; I humbly sue vnto yr Lp. that your honorable purpose of sending fitt and able judges hither, may not be hindred by the placing of one or two heer, merely for necessity of service and not for meritt. It will bee a great blow to the welfare of this kingdome if that noble counsell and resolution of your Lordship's take not effect. I long to see a good Justice establisht heer, and then I wold bee suiter to his Majestie that I might have *nunc demittis* out of this kingdome; where if I continew but a few years longer, I shall get old, and poore, and contemptible. And so presenting my trew and humble devotion vnto yr Lp., I shall ever continew yr Lps., most humbly I do you service, Jo. Dauys.

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P.S.—I had almost forgotten one circumstance, which I think not vnapt to be signified vnto your Lordship. When Sir Patrick Barnewall was committed from the Counsell table, Well, (said hee) we must endure this as we have endured many other things. What mean you by that? said my Lord Deputy; what have you endured? Wee have endured, (said he) the miseries of the late warr and other calamities besides. You endured the misery of the late warr? said my Lord Deputy. No, Sir, wee have endured the misery of the warr, wee have lost our blood and our friends, and have indeed endured extreme miseries to suppresse the late rebellion, whereof your priests, for whom you make peticion, and your wicked religion, was the principall cause. And so, without any reply, he was delivered to the constable. He hath been more submissive since his commitment; and, indeed, they ar doubtful and fearfull lest His Matie will take a severe course against recusants, vppon the discovery of those horrible treasons attempted by Papists in England, so as if a universall conformity bee wrought in England, this kingdome will follow without contradiction.*

**Pp.* 5. *Hol. No date. Sealed. Add. Endd.:* "Sir John Davyes to the Earl of Salisbury." *Enclosing,*

Decree in the Star Chamber at Dublin, against John Elliot, John Shelton, Thomas Plunckett, Robert Kennedie, Walter Sedgrave, Edmund Purcell, of the city of Dublin, aldermen, Thomas Carroll, Edmund Malone, of the same city, merchants, and Phillip Bassett, of the same, gent. Upon which their confession and wilful obstinacy, the Court proceeding to sentence and judgment.—Dublin, 22 *November* 1605.

Pp. 3½. *Endd.* S.P., Ireland, Vol. 217, 96 & 94.

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The other Letter is dated 15 February, 1605-6, and is as follows :—

My most honorable good Lord, its before Christmas last I was bold to trouble yr Lp. with an advertisement of such accidents as did arise in Michelmas terme; that is touching the course that was held against the recusants of Dublin and others that disobeyed the King's proclamation for reducing the people to church. So now I hold it pertinent to my duty, to signify breefly to yr Lp. what hath been donne since in pursuit of that business. This last Hilary terme six other aldermen and cheefe citizens were called into the Star Chamber to be censured in the same manner as the others were the year before. Three of them only did passe the censure of the Court and were fined 100*l.* a piece, the other three were spared for that tyme bycause they did yield to a conference for satisfaction of their consciences; but the main and principall busines that passed that part this terme did consist in this: There were divers fines imposed vppon the persons convicted the last terme. These fines being escheated into the Exchequer to be levied and process being awarded to the sherifs of Dublin to that end; when the sherifs had impanelled a jury to enquire of their goods and lands, and to extend and valew them that therevppon the fines might be raised and made: there offred to the jury certen deeds of guift that had most apparant marks of fraude and trust, in which five of the most substantiall of them had given in generall words all their goods and chattells to their children, prentises, or friends, not eccepting or reserving so much as their wearing apparell; only there was an entent expressed, that the guifts were made partly for payments of their debts and partly for the maintenance of themselves, their wives and

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children. Besides it appeared that the deeds were antedated six months at least before the delivery, for they were not made and published untill they were called in question for their recusancy, and hereafter the doners themselves continued in possession of the goods and bought and sold and trafyqued with them, so it was a most manifest collusion and mockery to all the world to pretend that they [had] *bona fide* given away all that they had by those severall deeds of guifts. Notwithstanding, such fayth was given unto them by the jury as they would find nothing for the King; and so the effect of the Censure in the Star Chamber was like to bee made fustrate and defeated by this grosse and apparant fraud and conveyance. Herevppon wee were faine to resort back again to the same Court, to mayntayne and make good their owne proceedings, both by condemning those fraudulent deeds and by punishing the contrivers and publishers thereof, to the præjudice of the King and the Commonwealth. Accordingly wee proceeded against the doners and donees *ore tenus* this terme in the Star Chamber heer, where all the judges being called to assist the Court, the deeds of guift were condemned as fraudulent and voyd in law to barr the King's execution or prejudice any creditor, which is the best president and example that hath been made in this kingdom over many years, bycause it is a generall mischief in this realm, that all men's estates ar entayled and dobtfull by reason of recent guifts and conveyances. By these means the King's fines ar in great part levied and the rest will shortly be brought in. Howbeit the truth is there ar very few that conforme themselves (I speeke of the wealthier sort), bycause they hoped (as wee hear) for a countermaund of these proceedings out of England; but wee doubt no such matter, but rather look

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[illegible] encouragement in tha[illegible]

The [illegible] and [illegible] of the [illegible] peticion a[illegible] [illegible] proceeding hath yet bee[illegible] against them for their contempt. The Sta[illegible] will prove a good school house to teach thi[illegible] [illegible] of that Court be vpholde[illegible] [illegible] and for the publicl[illegible] [illegible] begins to a good formall course.

The [illegible] of assize as appointed this Lent to visit the [illegible] My [illegible] vppon Mounster, which will be a [illegible] long progresse, yet I hope to returne before Easter, at what tyme I shall not forgett to advertise yr Lp. particularly and truly of the state of things there.

My Lord Deputy tells me that he hath moved yr Lp. by his letters, that my College the Atturney may bee removed into the Court of Common Pleas (where indeed there is little business or service to bee done) and (who is now hear) to the place of Solicitor. I assure yr Lp. vppon my poore credit with yr Lp. that if yr Lp. shall vouchsafe to grace me so much as to commend me for the place of Attorney, that the other gentleman is very fitt both for learning, experience, & honesty, to supply my place & I know I should have very good assistance of him. He was once commended to yr Lp. & brought vnto you by Sir Michael Hicks, for the Solicitor's place hear in Queen Elizabeth's tyme, but I dobt yr Lp. doth not remember that circumstance. Thus I humbly crave pardon & leave yr Lp. with God. Dublin 15th Feb. 1605. Yr Lps in all humble Dutyes Jo. Dauys.*

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*Pp. 3. *Hol. Sealed. Add. Endd.:* "Sir John Davies to the Earl of Salisbury." S.P. Ireland, Vol. 218. 14.

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Finally here, on January 6th, 1608, Sir John Davies addressed a very important letter to the Earl of Salesbury on the indictment of the "fugitive Earls." I give the 'report' of it from the Calendar, as follows:—

SIR JOHN DAVYS to the EARL OF SALISBURY.

About ten days before Christmas was sent with other Commissioners down into Ulster to indict the fugitive Earls and divers of their adherents of those high treasons, whereof they found themselves guilty when they made their sudden flight out of this country. And now, having made a full dispatch of this business, accounts it a particular tribute due to his Lordship to give him some signification thereof, albeit he knows the State here will give him a better and fuller advertisement.

The Commissioners sat in two counties; first, at the Lifford in the county of Donegal, where the fugitives were all assembled, and committed some acts of rebellion before they took shipping; and after at Strabane, in the county of Tyrone, where the Earl of Tyrone had taken upon him the name of O'Neale (which is treason by Act of Parliament here), and besides had committed many foul murders since he was last received to grace.

In the county of Donegal they preferred against them all their bill of indictment, containing the high and principal points of treason wherewith they were to be charged;—namely, for conspiring and practising to deprive the King of his Crown of Ireland, and to take the Government into their own hands, which they intended to bring to pass by killing the Deputy and Council, by surprising the castle of

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for continewed countenance and encouragement in that behalf.

The contrivers and justifiers of the mutinous peticion ar yet restrayned, but no judiciall proceeding hath yet been commenced against them for their contempt. The Star Chamber will prove a good schooll house to teach this people obedience, if the authority of that Court be vpholden and used as it hath been of late; and for the publick justice in other courts, it begins to a good formall course.

The justices of assise ar appoynted this Lent to visit the provinces. My lott falls vppon Mounster, which will be a long progresse, yet I hope to returne before Easter, at what tyme I shall not forgett to advertise y^r Lp. particularly and truly of the state of things there.

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Dublin and other principal forts, by bringing in a foreign invasion, and by stirring a new rebellion within the realm; and lastly, for committing certain acts at their departure, which, being done by men whose hearts were poisoned with those former traitorous intentions, amounted to an actual rebellion; and then departing, with intent to return with a foreign power to depose the King from the royal government of this kingdom. This bill they brought ready drawn in this form, whereof he sends a copy, having opportunity to send it, because he was commanded to draw the original.

The jurors empanelled to find this indictment were 23 gentlemen of the best quality and distinction in that county; Sir Cahir O'Dogherty, who, next to the Earl of Tyrconnell, has the largest territory there, being the foreman;—and of the 23 jurors, 14 were of the Irish nation, and but 10 of the English, in order that there might be no exception of partiality in compounding the jury. The bill was read publicly both in English and Irish, and the evidence likewise publicly delivered, though that were needless and not usual upon taking of indictments: but they thought it fit to discover a great [deal] of the evidence to all the hearers; to the end that all the country might be satisfied that the State proceeded against them upon a most just ground, and the people, knowing their treacherous practices, might rest assured that their guilty consciences and fear of losing their heads was the only cause of their running away, and not the invitation or allurement of any foreign prince. They laid open the evidence at large, and enforced it with the best advantage they could; but they found afterwards that a little rhetoric would have served to persuade the jury to find the bill against both the Earls and M'Quyre [Maguire]; but, because all the rest of their followers who

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are named in the bill were charged with all the treasons in as high a degree as the Earls themselves, they (the jurors) conceived a doubt how they might find the bill true against those followers, because it was very probable that most part of them knew not the Earl's practices, and it was reported that most of them showed themselves unwilling to depart the kingdom.

To satisfy them on this point, told them that an indictment was but an accusation, and no conviction; that such as adhered to a known traitor might well and justly be accused to be partakers of all those treasons wherewith the known traitor stood charged, and be called to answer thereupon; and that, if upon their answer they could clear themselves, this accusation should do them no harm. And this seemed good reason to the jury.

Again, they made another scruple how they might find that point of the indictment which chargeth them that they imagined the destruction of the King's person, whereas no part of the evidence proved so much. They answered then that, if they (the jurors) were persuaded that the Earls practiced to deprive the King of his crown (which every rebel endeavours to do), it follows as a necessary conclusion, that they imagined the death of the King. For he that would take the King's crown from his head, would likewise (if he could) take his head from his shoulders; and he that would not suffer the King to reign, if it lay in his power would not suffer him to live.

Being satisfied on this point, they found the bill true within an hour, and returned it subscribed with all their names, as a testimony of every man's assent in particular. Troubles his Lordship with these little circumstances, in order that he may perceive their equal and indifferent pro-

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ceeding for the King, and the honest care and discretion of the jurors in taking and finding this indictment.

The next day they went to Strabane, which is an Irish town distant but half a mile from the Lifford, on the east side of the river of Finn, which divides Tirconnell from Tyrone. There they found a great appearance of the inhabitants of Tyrone; out of whom the sheriff having returned a large pannel, 19 of the best and ablest were sworn, whereof the greatest part were natives of that county, and Sir Harry Oge O'Neale, the best man now left in Tyrone, was foreman.

This jury was specially charged to enquire of two principal points: first, whether the Earl of Tyrone had taken upon him the name of O'Neale since His Majesty came to the crown; and next, what murders had been committed by him or by his commandment in that county within the compass of the same time.

Then they exhibited a bill against Tyrone for assuming the name of O'Neale, for proof whereof they had only one signet or warrant written in Irish, wherein by the name of O'Neale he commands O'Quin, his marshal, to pay certain monies in this form :—

"O'Neale bids O'Quin to pay 60lr, &c." but this warrant was subscribed "Tyrone." Notwithstanding, the jurors, upon their own private knowledge, found the bill of judgment true, and gave this reason. "Although," they said, "in presence of the English we should call him by the name of Earl, yet, when he was in Tyrone amongst his followers, he would be highly offended if we called him not O'Neale, so that we durst give him no other title."

Then they delivered to the jury a note containing the names of certain persons who had been murdered in Tyrone since His Majesty's reign, which note had been secretly

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put into the Deputy's hands as he was passing to the church not long before the Earl's departure, with an express signification that those men had been hanged and killed by the Earl, not in course of service, but to satisfy his private malice, the men being of that value that his authority to execute martial law did not extend to them. Willed the jury to inquire the quality of those men, and whether they were murdered by the Earl or not.

They received the note, and found that not only those men who were named therein, but divers others, to the number of 19 in all, and all of such quality that he could not hang them by martial law, had been hanged and killed by his verbal commandment since he had been received to grace; of all which murders they made several presentments, and subscribed their names thereto.

Thereupon they thought fit to tell them that from henceforth they should be freed from such bloody tyranny, whereunto they and their ancestors had ever been subject; and that they had great cause to thank God for this blessed change; for now the King had taken them all into his own immediate protection, who would not suffer them to be oppressed, but would himself revenge the death of the meanest of his subjects in that country; and that, if any of them committed any offence worthy of death, he should not be condemned and executed suddenly without trial, but he should first be accused by a jury of his own neighbours, and afterwards be tried by another jury of the like indifference: which is a more equal and favourable course than any other prince in the world holds towards his subjects in criminal or capital causes. With these and other like words delivered both in English and Irish, they seemed much contented and comforted, expressing it with a general

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acclamation of "God bless the King," &c.

They were also informed of divers base stealths of cows and plough horses, which the Earl had received and converted to his own use, and of his relieving and maintaining many notorious thieves; but, having taken so many indictments of treason against him (for every wilful murder is high treason by an Act of Parliament here), they accounted these other offences but venial in him, and therefore took no presentments of them. For it is as natnral to a northern Irish lord to be a thief, as it is proper to the devil to be a liar, of whom it is said that he was a liar and murderer from the beginning.

When they had received these presentments against the Earl, they made them up in a legal form, and dismissing the country, finished this service.

The next day, as they were passing homewards, some of the country people followed them, and told them of more murders committed by the Earl; whereof they took a note, but did not think it necessary to call the country together again to enquire thereof; considering he had been before indicted of 20 several treasons in his own country, besides the greatest and highest treasons, whereof he stood indicted in the county of Donegal.

They found and left all the north as quiet as the Pale Only O'Cahane refused to come to them, albeit the Deputy hearing of his discontent, had written an express letter to him, requiring him to come to him (Sir John Davys) and lay open his grievances, if he had any; because he had ever been found his friend in his suits against the Earl of Tyrone. Notwithstanding, he refused to come; alleging, by a letter to him, that the Bishop of Derry had done him wrong, and that he would not come where he was till he

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had spoken with the Deputy, to whom he would very shortly make his repair. He has not as yet done any violent act; but a base brother of his plays Robin Hood in his country, and is, as they hear, countenanced by him.

The indictments which were taken are returned into the King's bench; whereupon process shall forthwith issue, so that they shall be attainted of outlawry about the beginning of Trinity Term next; and hopes ere long after to prove himself a prophet, for about six months before the Earl's departure he told him, in the presence of the Lord Deputy, that he was assured that he should live to see Ulster the best reformed province in the kingdom. Whereupon he made answer that he wished from his heart he might never live to see that day; and his reason was, because he would not have live so long a man that had entitled the King to so much of his land. Told him he would make a more charitable wish, both for him and for himself, and that was, that "he might live to see him the best reformed subject in the kingdom." Whereat he would have been angry, but that the Lord Deputy pacified him by turning it to sport; but he spake in good earnest, out of the abundance of his heart.

Hopes, however, that this prophecy will prove true, and that, since these wicked passengers are now cast out of the ship of this Commonwealth, all tempests will henceforth cease, and that they will have a fair calm and tranquillity. —Dublin, 6 January 1607-8.*

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* *Pp.* 6. *Hol. Sealed. Add. Endd.*: "Sir John Davis o the Earl of Salisbury." S.P. Ireland, Vol. 223. 2. Thet Indictment of Tyrone, Tyrconnell and the rest of the Fugitives, is given in the Calendar, pp. 555-556.

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The Public Record Office contains in every year similar Letters and State-Papers. They are nearly all in Sir John Davies's own handwriting; and I for one marvel how he found time to prepare such multiplied documents as he moved hither and hither. But my waning space forbids that I should draw further on these rich stores. Enough has been furnished, especially when read along with the State-Papers (in Vol. IId.) to more than vindicate the high praise which I ventured in the outset to pronounce on the Work achieved by this illustrious Englishman in and for Ireland; while it brings a flush of indignation to one's cheek to find your supercilious as cynical and ignorant as malicious *Saturday Reviewer* trying to sneer it all away !*

I return now to the Facts in the Life. Honours—well won—and advance, came to him. In 1606, by patents dated successively 29th May, 1606, and

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* I had transcribed from uncalendared Public Record MSS. and Carte MSS. and other sources, material fully equal in amount to all I have printed herein: but while of the rarest historical value and interest, as being of the same type with those given, they may be left for consultation in the originals by the historical inquirer. Of this I am satisfied that the more Davies's Irish Correspondence is examined the more will admiration be deepened.

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29th May, 1609,[1] he was promoted to be Attorney-General for Ireland, and was also created Sergeant-at-Arms.[2] He went as "Judge of Assize." His Reports and State Papers, and "Pleadings" and Letters, from 1603 onward, demonstrate how firm was his grasp of circumstance, and how statesmanly he marked out his plans, while his forensic appearances astonish with the omniverousness of his legal reading and knowledge of precedents. Throughout he was 'backed' and cheered by his superiors in Ireland and by the King and his ministers. So early as 9th September, 1604, the Lord Chancellor thus wrote to Davies:—

Y^r lett^r written at Cavan the 13 of Julij Last I receyude the 28 of August. I am gladde to heare of yor [illegible] & wysh yor seruice & successe therein may be aunswerable to yor owne expectations & best hopes. You maye haue comfort that you serue so gracious a soueraigne, so religious & replete wth all Royall virtues, and so redy & wyllinge to acknowledge & remunerate the services & dueties of his

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[1] See Smith's Law Officers of Ireland, *s.n.* The Patent of 29th May, 1609, I should have liked to have given *in extenso* here. It is extremely interesting. Unfortunately it proves too lengthy for our available space.

[2] As Sergeant-at-Law he ought to have been resident in London, but the King gave him "dispensation" that he might return to Ireland.

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meanest servantes farre beyonde their desertes. I doubt not but yor diligence & care will be such as wyll be very acceptable to his Matie In the Discourse wch you haue sent me, I fiynde not only a very lovinge respcte wch you have towardes me (for wch I owe you heartie thankes). But also a very wyse & judicious obseruacon of the state of this wasted kingdome & the condicon of the people. God staye his hande from further afflictinge them. They haue alreadye fealte the scourge of Warre & oppresion & now are vnder the grevous scourge of famine & pestilence. God gyue them his grace and make them imprest as true Christians ought. To become truly Religious towarde God, Loyall and faythfull to their Soueraigne, constantly obedient to his lawes & to the effecting thereof. I euer wysh & praye that they may haue religious virtuous & godly magistrates sette ouer them. To yor selfe I wish all happines, and wherein you shall haue occasion to vse mee, you shall alwayes finde me redy & wyllinge to stande you in the best stede I can. And so wth my very swete comendacons I comitt you to the Almightye. And rest yor very assured Loving friende T. ELLESMERE, Canc.

At [torn] feile

9 Septembris 1604.

To the right wo^r my very Loving frende, Sr. John Davis Knight, his Maties Solict. generall in his Realme of Ireland.[3]

A few years later—1608—one Letter in full—now for the first time printed,—from the Lord Deputy, the noble Chichester—must suffice as a specimen of many kindred.

[3] Carte MSS. pp. 315-6.

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Noble Mr. Attornie,

Since your departure hence I haue received two ioynt letters from you and Sr. James Ley, and one from your selfe alone, for wch I am not your debter vnlesse it be in the matter, wch I confesse bringes more life wth it comming freshe out of the stoorehouse of neewes and noveltie, for I have written as manie and more vnto you both.

Albeyt I expect you wth the first passage (for so the lordes haue promised by their letters) yet can I not leaue you vnremembred, assuringe you thoe you have greater friendes, none respects you better then my selfe, nor can be more readie to make demonstration therof accordinge to the meanes I haue. I praye bringe wth you the lordes directions for Sr. Neale Odonnell, and the rest of the prisoners. Sr. Neale and Ocatiance [O'Sullivan?] had contriued their escape and woulde haue desperately attempted it, had I not preuented it within these sixe nightes by a discoverie made vnto me, albeyt I keep 20 men euerie neight for the guarde of the Castle ouer and aboue the warde of the same, whereof two or three lye in each of their chambers. Their horses were come to the towne, and all thinges else in readines. Sure these men doe goe beyond all nations in the worlde for desperate escapes. Shane Granie Ocarratan [O'Sullivan?] after he was acquited of three indictments, and as most men conceiued free from all danger of the lawe, did on fridaye the 27th of Januarie cast himselfe out of a wyndowe in the topp of the Castle by the heelpe of a peece of rotten match and his mantell wch brake before he was halfe waye downe, and thoe he were presently discovered yet he escaped about supper tyme.

When I had written thus far worde was brought me that a passadge [*sic*] was come from Hollyheade wch made me

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to pause for a tyme hopinge you or some other wth letters, or other directions, was arriued, but beinge advertised that the Recorder of this Cyttie only wth a fewe other passengers had in this fayre weather wrought out a passage by longe lyeinge att sea, although the wyndes were contrarie, and that they came from London before Christmas and had no written letters or message but in theise particulars, I fell to you againe.

And do now praye you to geue your best assystance and furtherance to such matters tuchinge my perticulare as John Strowd or Annesley shall acquaint you wth all, for wch you shall finde me verie thankfull vnto you.

I haue written to the lordes in the behalfe of the howse servitors here, that they may be remembered vpon the deuysion and plantation of the scheated lands in Ulster. I am discreadited amonge them if they should be forgotten and sure the plantation woulde be weake wth out them, for they must be the pyllers to support it. Those that shall come from thence wyll not affect it in that kynde as these do, to make it a settlement for them and theirs; and in respect of their wourthier deserts and paynfull labors, and that I haue vpon my promise to speake effectually for them preuayled so farre as to staye them from resortinge thither, wch they woulde doe in great multitudes if I woulde haue given way to their desire. I wysh that an honorable consideration maye be had of them before the diuision be concluded. I know that worke is of great moment and on it dependes much of the prosperitie, and good estate of the whole kingdome. I haue sayd enough to one that vnderstandes so well: And so beinge called vpon sooner then I expected I must end wth the page, but wyll euer be found

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Your trewe affected friend

Att Dublyn Castle the 7th of februarie 1608. ARTHUR CHICHESTER.

I send here wth the proceedinge of the Court of Kinges bench in the cause of the Carrolans wch was violently prosecuted by the l. of Howth. I send them by reason it is thought by the Judges that the Baron will examine of their proceedinges here.

To my verie wourthie friend Sr John Davis Knight his Maties Attornie in the Realme of Irelande.[1]

Two short letters from Bacon—not before printed, having escaped even Mr. Spedding's Argus-eyes—in the same Carte MSS.—show Davies's pleasant relation with his great contemporary. They are as follow:—

(I. Carte MS. Vol. 62, ff. 317-18.)

Good Sr Jh. Davies yor mistaking shall not be imputed to you (for the difference is not much). Yo^r^ gratulacons for my marriage I take kyndly. And as I was all waies delighted wth the fruites of yor [illegible] so I would be gladde of yor [illegible] so as you plant not yor self to [o] farre [f]. For I had rather you should be a laborer than a plant in that State. You giue me no occasion to wryte longer in that you impart not by yor l^rs^ any occurrence of y^rs^. And so wth my very lovg consid^n^ towards you

I remayne

from Graies Inn, Yo^r^ assured friend

this 26th of Dec, 1606, FR. BACON.

To my very good Frend Sr Jh Davis Knt Attorny g'rall to his M. in Ireland.

[1] Carte, as before, Vol. 61, ff. 313-14.

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(II. Ibid. ff, 328-0.)

Mr. Atturny,

I thanke you for yor l^{re} and the discourse you sent of this mere accident, as thinges then appeared. I see manifestly the begynnyng of better or woorse. But me thinketh it is first a tender of the better,and woorse followeth but vpon refusall or default. I would haue been gladd to see you hear, but I hope occasion restreineth o^{r} meeting for a vacation when we may haue more fruite of conference. To requite yor proclamacon (wch in my judgment is wysely and seriously penned) I send you [illegible] w^{h} [illegible] wch happened to be in my hands when y^{os} came.

I would be gladde to hear oft from you and to be advertized how [illegible] passe whereby to haue so occasion to thinke some good thoughts though I can doe lytell. At least it wilbe a contynuance in exercise of o^{r} frendshippe wch on my part remayneth increased by that I hear of yor service and the good respects I find towards my self. And so in extreme haste I remayne

Yc^{r} very [illegible] frend

from Graies Inn this FR. BACON.

23th of Oct· 1607,

To the R. W. his verie Lovinge frende Sr Iohn Dauys Knight, his Maties Atturnye in Irelonde.[5]

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[5]Another letter from Bacon to Davies may fitly find place in a foot-note. It is from Spedding's Life and Letters of Bacon: Vol. III. p 65: from Lambeth MSS. 976. fo. 4.

A Letter to Mr. Davys, Then gone to the King, at his first entrance, March 28, 1603.

Mr. Davis,

Though you went on the sudden, yet you could not go

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During one of his 'circuits' in Ireland, he met Eleanor, daughter of Lord Audley (afterwards Earl of Castlehaven) and was married to her—though the date has not been traced. Her later years were darkened with insanity of a strangely voluble type. It is to be feared she was an ill "help-meet" for her husband. There is pathos, if also inevitable comedy, in her career—not here to be entered on.[6]

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before you had spoken with yourself to the purpose which I will now write. And therefore I know it shall be altogether needless, save that I meant to shew you that I am not asleep. Briefly, I commend myself to your love & to the well using of my name, as well in repressing and answering for me, if there be any biting or nibbling at it in that place, as in impressing a good conceit and opinion of me, chiefly in the King (of whose favour I make myself comfortable assurance), as otherwise in that court. And not only so, but generally to perform to me all the good offices which the vivacity of your wit can suggest to your mind to be performed to one, in whose affection you have so much sympathy, and in whose future you have so great interest. So desiring you to be good to concealed poets, I continue

Your very assured,

FR. BACON.

Gray's Inn, this 28th of March 1603.

[6] I had selected certain specimens from her Verse and Prose 'prophecies' for an Appendix; but re-consideration makes me deem it expedient not to expose her wretched

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While intensely occupied with his official duties, Sir John Davies did not neglect his literary gift. He was making history every year—so fundamental and permanent was the part he filled in Ireland—but the Past was gone back on that he might fetch from it monition for the Present, and hope for the Future. His imperishable book: "A Discourse of the true reasons why Ireland has neuer been entirely subdued till the beginning of His Majesty's reign," (4to)[7] will reward the most prolonged study to-day. It was published in 1612. In the same year he was made King's Sergeant and elected M.P. for Fermanagh, being the first representative for that county in the Irish House of Parliament. He was likewise chosen to be Speaker of the House; but not without a characteristically violent struggle between the Catholics and Protestants.[8] He delivered a notable speech "to the House" on its opening in 1638.[9] In 1614[1] he appears in the House

ravings to the common gaze. They are nearly all accessible in the British Museum to students. Mr. Ashbee has gone to the pains of reproducing one of her tractates in fac-simile.

[7] See Prose, Vol. II.

[8] I am reluctantly obliged to deny myself of a full Narrative of the facts that I had prepared. I must content myself with a reference to them.

[9] Ibid, Vol. III. [1] Willis's Nat. Parl., Vol. III., p. 173.

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of Commons in England as M.P. for Newcastle-under-Lyne: and his attendance in England was preparatory to final retirement from Ireland. "Grants of lands" there from the "forfeitures," —which if ever any righteously acquired, he did[2] —gave him a special interest in Ireland as a proprietor; but after all, for such a man, at such a time, to be limited to Ireland, was but a splendid exile. It is not, therefore, to be wondered at that having practically achieved all, and more than all, he had been given to do, or himself originated, he sought to return. It is usually stated (e.g. Chalmers, Woolryche, &c., &c.) that he so returned in 1616; but it was not until 1619 that he did so finally and absolutely; for in a letter under date "21 June, 1619," to Buckingham, he is found still only pleading for retirement and for the transference of his office to a relative. It is one of the treasures of the Fortescue MSS, in the Bodleian, and is as follows:

My most honored Lord,

I præsent my most humble Thanks to y^r L^p for præsenting mee to his Mat^y the last Day, at Wansted; & for y^r noble favour in furthering the suit I then made, as

[2] The Calendar of Patent Rolls of Chancery of Ireland for the reign of James I. Public Record Office. Dublin, Ireland, give full details. See especially pp 164, 202, 206,

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well for mine owne stay in England, as for my reccommending a fitt man to my place of service in Ireland.

The Gentleman to whom I wish this place now, is much obliged to y^{r} L^{p} already, & well worthy of y^{r} L^{ps} favours, & besides his owne worthines (hee being a Reader & Judge of a circuit, of wch degree & quality never any before was sent out of England to supply that place), hee is of neere alliance vnto mee. So as, where there is concurrence of meritt & kinred, y^{r} L^{p} may conjecture that I deale wth him like a gentleman & a friend, & not like a marchent. Albeit I will leave a good place there, wthout any præsent præferment heer (whereof none of my profession have failed at their return out of Ireland) I might, perhaps wth some reason expect some Retribution, to recompence the charge of Transporting my famely from thence, & of setling it heer in this Kingdome, where I am become almost an Alien by reason of my long absence.

For this particular favour of transferring my place to so well deserving a successor, I doo wholly depend vppon y^{r} L^{p} as I shall euer doo vpon all other occasions, while I live, as one that have separated my self from all other dependancies, beeing entirely devoted to doo y^{r} L^{p} all humble & faythful service

Jo: Dauys.

21 Junij 1619.

213, 216, 250. 357, 258, 259, 268, 294-5, 343, 429, &c., &c. Among the Carte MSS. in the Bodleiam is a curious paper from the Countess of Huntingdon (Sir John's daughter) making inquiries what had become of the Irish estates, &c., &c.,—long afterwards.

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if my long service may induce favour, y^r L^p may bee pleased to looke vppon the noate enclosed.

To the right honorable my very good lord
my lord the Marques of Buckingham, &c.[3]

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[3] It will be observed that in the Letter Sir John does not name the gentleman he wishes to succeed him. It was no doubt Sir William Ryves, who actually was appointed. The "neere alliance" was through the family of Mervyn, and is shown in the following details drawn up for me by Mr. B. H. Beedham, from information communicated by Mr. J. N. C. Davis, as before:

George Touchet, Earl of Castlehaven. | Lucy, d. of Sir James Mervyn Fonthill, Wilts.

3 — 2

Sir John Davies | Lady Eleanor Touchet | Edward Davys John Cave

Matthew Davys b. 1595 ob. 1678. | Anne d. of Edward Mervyn of Fonthill, ob. 8th Nov. 1657.

John Ryves of Daunsey Court | Elizabeth d. of John Mervyn (several children)

6 — 8th son.

Sir William Ryves settled in Ireland; had numerous appointments, and made large purchases of estates; Attorney General.

Sir Thomas Ryves, Master in Chancery: Judge of the Prerogative Court there.

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It is to be regretted that the "noate" of the postscript has not been preserved. It probably enumerated his public services.[4]

Sir William Ryves succeeded as Attorney-General for Ireland by Patent dated 30th October, 1619.[5] From 1619 onward, Sir John Davies is found in the House of Commons (still for Newcastle-under-Lyne) and "on circuit" as a Judge. His "charges"—one is given in his Prose Works—as "one of the Justices of Assize for the Northern Circuit"—are very characteristic, being full of legal 'precedents,' and noticeable in their tracing up the verdict sought to abiding principles. He took part in the memorable "case" of Frances, Countess of Somerset, for the poison-murder of Sir Thomas Overbury. In the House of Commons he spoke seldom; but when anything that concerned Irish interests came up, he never failed to contend in behalf of Ireland.

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[4] No. 245. For a notice of the collection from which the above Letter is for the first time printed, see Preface to "The Fortescue Papers" . . . . . Edited . . . by Samuel R. Gardiner, for the Camden Society (1871). My friend Mr: Gardiner must have overlooked Davies's important letter.

[5] By inadvertence the Patent describes Sir John Davies "deceased." Unless used as = departed (from Ireland), or = having ceased to fill the office, it is a singular oversight.

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Lightening his legal employments were a large correspondence and 'fellowship' with his most eminent contemporaries, and the collection of his Poetical Works, in so for as he wished them to go down to posterity. Of the former I shall select one undated letter to the illustrious Sir Robert Cotton, with whom he had been early acquainted and associated in 1614, in re-establishing the Society of Antiquaries, originally founded in 1590. One of these is a sprightly and pleasant letter, and is all the more welcome that most of his correspondence that remains is official and grave. The lighter letter is as follows, from MSS. Cotton: Julius C. III., p. 14: now paged 133, British Museum:

Sweet Robin, for a few sweet words, a client of mine hath presented me wth sweet meates, to what end I know not except it be, as Chaucer speaks,

To make mine English sweet uppon my tongue,

that I may pleade the better for him to-morrow at the Seale.

Not wth standing, the best vse that I can make of it, is to preesent you wth it, especially at this time when you ar in Physick, that you may sweeten your tast after the Rhewbarb. I have been a little distracted wth vnexpected business these two or three last dayes, that I could not performe my officious promise to visit you in this voluntary sickness of yours; but [erased] now I am faine to make my hands to excuse my feet from travayling vnto you, because being the servant of the multitude I am not mine owne man.

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Make much of your self, & make y^r self speedily well, that I may have your company towards Cambridge, from whence I will go wth you to see the ancient Seat of Robt. le Bruis; so wishing you a prosperous operation of your Phisick, at least that you may Imagine so, for it is the Imagination that doth good, & not the Physick, wch I ever thought a mere imposture; I cease to trouble you least the intention of to much Reading hinder fhe working of those vertuous drugs.

Y^rs all & ever

J. Dauys.

(Endorsed) To my worthy friend

Rob: Cotton esquier.

A second letter runs thus, from MSS. Cotton: C. III., p. 32:—

Noble Sr Robert: the ordinary subject of letters is, newes, whereof this kingdome since the warres, hath been very barren; therefore I must write vnto you that wch is no newes, that is, that I love you, & hold a klnd and dear memory of you.

according to my promise to y^r self & Mr. Solliciter of England who is now, I hear, a Judge, I have caused this bearer to draw some Mapps of o^r principall Cittyes of Ireland; and he having occasion to go for England, I have thought fitt to direct him vnto you. he is an honest ingeneous young mā & of y^r owne Name. I hear not yet of ye Antiquities out of Cumberland; if they be brought hither I will take care to transmitt thē to London, & so in

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speciall hast, being ready to go my circuit ov^r all Munster I leave you to ye divine p'servation.

Y^s to do you Service

Io: Dauys.

Dublin 4 Martij 1697.

I desire to be affectionately remembered to Mr. Justice Doddridge & Mr. Clarencieux.

His Poems, as finally collected by him, appeared in a thin octavo in 1622. His Prose Works he never collected; but allowed them to be re-published separately. His "True Cause" passed through several editions during his own life-time. One of his most important prose-books after the "True Cause" brings us to the closing event of his busy and various-coloured life. It is entitled in the first issue, which was posthumous[6]—"The Question concerning Impositions, Tonnage, Poundage, Prizage, Customs, &c. Fully stated and argued, from Reason, Law, and Policy. Dedicated to King James in the latter end of his Reign." (1656.)

This historically-memorable treatise is reproduced in the Prose Works. It must suffice here to state of it that later the King

[6] Woolrych, as before, splits the one work into several, and mistakes MSS. of it for distinct works. Vol. I., pp. 209-10.

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(Charles I.), having an impoverished exchequer, had recourse to forced loans of various amounts. Hating the control of Parliament, he persisted in substituting his will for law, his "proclamation" for statute. Feeling the treacherousness of his standing-ground of prerogative, the Judges were applied to, and with loyalty to the monarch rather than to their country, they somewhat favoured the King's 'demands.' Charles deemed their "opinion" to have a somewhat "uncertain sound," and presented to the Judges a paper for their signature, recognising the legality of the collection. This was refused. One of the victims of the sovereign's wrath was Chief-Justice Crew, who was "discharged" on 9th of November, 1626 (Foss's Judges, vi., p. 291). Sir John Davies was appointed as his successor; and one cannot help recognising that the opinions revealed in his "Jus Imponendi" contributed to the succession.[7] For one, I should rather have found Sir John Davies on the other side, spite of his great array of "precedents" and ingenious applications to the then circumstances and exigencies, and necessarily ignorant of the lengths Charles as distinguished from James, was to proceed. Technically, there had been "pre-

[7] Vol. III., pp. 1-116.

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cedents" no doubt; but long "use and wont" had rendered so-called regal rights obsolete, and it was insanity to revive them, as Charles I.,—who inherited James's high notions of regal authority, —found out when too late. The following closing Letter reminds us of Andrew Marvell's diary-like correspondence with his Hull constituents. It reveals how observant the Writer was of the House of Commons business. Carte has dated it '1624' (Carte MSS. Vol. 62. p 327).

SIR JOHN DAVYS to the EARL OF HUNTINGDON.

Right Honorable,

It may please y^r Lop: the lo: Arch. of Canterbury this morning brought into the house of the lords, a Report of the Kings answer in writing, made to the Committees of both Houses, who præsented their Resolution & Advise for the absolute breach of the long continued Treaties, both touching the Match & the restitution of the Palatinate. The Report, in writing, was delivered to the Clark of the Parliament to the end that every man that would, might take a copy thereof. so as y^r Lp. shall receave a perfect & entire Copy of that answer, by the hands of Mr Newton, who spends this afternoone in procuring other notes from the Clark according to y^r Lps. commaundement.

This great Matter of Advise did so take vp all the tyme in both Houses, as that there came vpp no bills from the house of Comons, till within these 3 dayes, when 5 publick bills & one private bill was presented, the titles whereof y^r Lp. will receave by Mr Newton: These bills have had one Reading; and 3 or 4 other bills originally preferred in

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this house, have been twise read, & ar in the hands of Comittees; but these acts (as I conceave) will have but a slow proceeding, vntill the maine busines bee reduced to more certenty. There ar divers Lords absent, & 4 wch appeared, doo retire themselves, refusing to take the oath of alleageance, namely the lo: Visct Montagu, the lo: Vaux; the lord Evers; the lord Roper; but my lord Morley hath taken the oath very willingly, & so (I take it) the lord Winsor and lord Sturton have done; for they remayne in the house & ar præsent at prayers every day.

There is a bill passing in the house of Commons, that no man shall take above eight in the hundred for loane of money. They have the same Committees for greevances, & for abuses in Courts of Justice as they had the last Parliament, but little despatcht, by reason of the great Trancendent busines. I think yr Lp. hath no cause to repent that you have not been præsent at this first meeting, wch (I doubt) will scarce prove a Session before Easter. in the meane tyme I shall not omitt to advertise yr Lp. of the ordinary passages. Thus præsenting my best service to yr Lp. I remayne

Yr Lps. humble & faythfull servant,

Jo: Dauys.

Charing Crosse, Monday 8th March 1623.

This Twesday morning (for Mr Newton is not yet dispatcht) I attended in the upper house; but there hath been *altū silentiu* touching the great busines: wee spent the tyme in reading of one bill for my lo: the Earle of Oxford, to confirme a decree made for him & his tenants of many tenements in White Chapell wch in tyme will prove a great inheritance. My lo. of Suffolk did publickly oppose

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the bill; but the affection of the house was strong for my lo. of Oxford. The bill is committed.

To the right honorable my very
good lord the Earle
of Huntingdon at
Duñington park,
Leycestershire

Referring to Davies and the expected promotion, the "lean fellow" called Death was nearer the Knight than was the Chief-Justiceship. Purple and ermine robes were actually bought, but they were not to be donned. He had told a Mr. Mead that he was at supper with the Lord Keeper (on the 7th of December,[8]) and that he fully expected the great promotion. The air was thick with "reports" to the same effect. He was found dead in his bed on the morning of the 8th December, cut down, it has been supposed, by apoplexy. Three days after, he was interred in S. Martin's Church, London. Later a double inscription for himself and his widow (who was re-married to Sir Archibald Douglas,) long hung on the third pillar, near the grave. The original Latin, with our translation, are as follow:[9]—

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[8] Pearces's "Inns of Court," p 293.

[9] See Stow's "Environs of London," by Strype, Book, VI., p. 72. But our text of the Inscriptions is from the Carte

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D. O. M. S.

Johannes Davys Equestris ordinis quondam Attornati Regii Generalis amplissima prudentiâ in regno Hyberniæ functus, inde in patriam revocatus inter servientes Domini Regis ad Legem primum Locum obtinuit; post varia in utrone munere præ clare gesta ad ampliora jam designatus, repente spem suorum destituit suam implevit ab humanis honoribus ad cœlestem gloriam evocatus

Ætatis anno 57.°

Vir ingenio compto, rarâ facundiâ
Oratione cum solutâ tum numeris restrictâ
Felicissimus.
Juridicam severitatem morum elegantiâ et ameniore
eruditione temperavit.
Iudex incorruptus; Patronus fidus
Ingenuæ pietatis amore et anxiæ superstitionis contemptu
Iuxta insignis.
Plebeiarum animarum in religionis negotio
Pervicacem μίκροψυχιαν ex edito despiciebet
Fastidium leniente miseratione.
Ipse magnanimè probus, religiosus, liber, et cœlo admotus
Uxorem habuit Dominam Eleanoram Honoratissimi
Comitis de Castlehaven Baronis Audley filiam
Unicam ex eâ prolem superstitem hæredem reliquit
Luciam illustrissimo Ferdinando Baroni
Hastings Huntingdoniæ Comiti nuptam.

MSS. Dr. E. F. Rimbault's MS. in the authograph of John Le Neve, as published in Notes and Queries, 1st. series, Vol. V., p 441, is inexplicably imperfect and blundering.

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Diem Supremam obiit 8° idus Decembris
Anno Domini 1626.
Apud nos exemplum relinquens, hic resurrectionem
justorum expectat.
Accubat dignissimo marito incomparabilis uxor
Quæ illustre genus
Et generi pares animos
Christianâ mansuetudine temperavit
Erudita super sexum
Mitis infra sortem
Plurimis Major
Quia humilior
In eximiâ formâ sublime ingenium
In venustâ comitate singularem modestiam
In femineo corpore viriles animos
In rebus adversissimis serenam mentem
In impio sæculo pietatem et rectitudinem inconcussam
Possedit.
Non illi robustam animam aut res lauta laxavit, aut
Angusta contraxit, sed utramque sortem pari vultu
Animoque non excepit modo sed rexit
Quippe Dei plena cui plenitudini
Mundus nec benignus addere
Nec malignus detrahere potuisset
Satis Deum jamdudum spirans et sursum aspirans sui
Ante et Reip. fati præsaga, salutisque æternæ certissima
Ingente latoque ardore in Servatoris dilectissimi sinum
Ipsius sanguine lotam animam efflavit
Rebus humanis exempta immortalitatem induit
III. Non. Quintilis Anno Salutis 1652.
Ps. 16. 9.
Etiam caro mea habitat securè quà non es

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Derelicturus animam meam in sepulchro.
D(eo) O(ptimo) M(aximo) S(acrum)
To God the Best and Greatest: Sacred.
John Davys of knightly rank, having formerly
discharged with prudence the highest duties of
King's Attorney General in the realm of Ireland:
thence having been recalled to his own country,
secured the first place among the servants
of his lord the King, at the Law. After various
services nobly rendered in each office, being now
nominated to more distinguished (appointments)
he suddenly frustrated the hope of his friends
but fulfilled his own—being called away
from human honours to celestial glory,
in the year of his age 57.
A man for accomplished genius, for uncommon
eloquence, for language whether fcee or bound
in verse
Most happy.
Judicial sternness with elegunce of manners
and more pleasant learning
he tempered.
An uncorrupt Judge, a faithful Patron
For love of free-born piety and contempt of fretting
superstition alike remarkable.
He looked down from on high on the obstinate narrowness
of plebeian souls in the matter of religion,
pity softening his disdain.
Himself magnanimously just, religious, free, and moved by
heaven,
Had for wife the Lady Eleanor of the Right Honble.
Earl of Castlehaven, Baron Audley, daughter:

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His only surviving offspring by her he left as heiress,
Lucy, to the most illustrious Ferdinand Baron
Hastings, Earl of Huntingdon, married.
He spent his last day the 8th December
In the year of our Lord 1626.
With us leaving an example: here for the resurrection
of the Just, he waits.

Near to her most worthy husband lies his incomparable Wife:
Who her illustrious birth
And spirit equal to her race
With Christian mildness tempered.
Learned above her sex,
Meek below her rank,
Than most people greater
Because more humble,
In eminent beauty She possessed a lofty mind,
In pleasing affability, singular modesty:
In a woman's body a man's spirit,
In most adverse circumstances a serene mind,
In a wicked age unshaken piety and uprightness.
Not for her did Luxury relax her strong soul, or
Poverty narrow it: but each lot with equal countenance
And mind, she not only took but ruled.
Nay she was full of God, to which fulness
Neither a smiling world could have added,
Nor from it a frowning world have taken away.
Now for a long time sufficiently breathing of God
and aspiring above, of her own
And the Commonwealth's fate divining beforehand,
And most sure of Eternal Salvation
With a mighty and huge ardour into her Beloved Saviour's

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breast, She breathed forth her soul washed in his own blood.
Taken away from things human she put on immortality
on the fifth of July, in the year of Salvation. 1652.
Ps. 16. 9.
My flesh also dwells securely because Thou wilt not
leave my soul in the sepulchre.

One is willing to accept the "golden lies" of these Epitaphs in either case.

Sir John Davies had several children. One, who was semi-idiotic, was drowned in Ireland. Others alleged to have been born, have not been traced. His daughter Lucy, of the Incriptions, and by whom, no doubt, they were procured, became famous in her generation as Countess of Huntingdon. We have to deplore that while we have a fine portrait of her, none, as yet, has been found of her Father.*

* I had intended giving his Will (nowise remarkable however) with an account of his charities, &c., but I can't find room (eheu!)

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II. CRITICAL.

I SHALL limit myself in this second half of our Memorial-Introduction to a statement and examination of certain characteristics of the Works of Sir John Davies.

First—The Poetry. There are Poets whose truest and most certain fame rests on (so-called) minor poems; and yet commonly their bulkier productions have over-shadowed these. From Milton to Wordsworth it is to be lamented that to the many they should be represented by "Paradise Lost" and "The Excursion"; or to descend, that Thomas Campbell and Samuel Rogers should have so hidden behind their "Pleasures of Hope" and "Pleasures of Memory" their rare and real faculty as poets—for while in the larger poems of Milton and Wordsworth there is of the imperishable stuff that only genius of a lofty type weaves, it is rather *(meo judicio)* in "purple patches" than in the web as a whole. In Milton and Wordsworth you do not read them at their high*est* in their Epics but in their shorter poems; while Campbell and Rogers should long since have died out of men's hearts, had they left nothing behind them save the

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smooth and prize-poem-like common-places of their "Pleasures." In Milton the remark requires modification, for only in "Paradise Lost" has he put forth to uttermost daring his Imagination—than which no writer of all time has approached him for grandeur of vision and splendour of utterance. But substantially I think that those capable of discernment will agree with me that if Time may shut and leave unread except by an elect few, many pages of the 'great' and volume-filling poems, the lesser will assuredly draw more and more homage, and abide as the regalia of our Literature.

It is different with Sir John Davies. His "Orchestra" and "Hymnes to Astræa" and Minor Poems, preceded considerably his "Nosce Teipsum," but it was his "Nosce Teipsum" that made King James I. prick up his ears on hearing his name, and it is "Nosce Teipsum" that is the poem that will secure immortality to Sir John Davies. His other poetry has special remarkablenesses—as will appear—but in "Nosce Teipsum" alone, have we the inspiration and spontaneity, the insight and speculation, the subtlety and yet definiteness, the "burden" (in the prophetic sense) and the melody of the Poet as distinguished from the versifier or verse-Rhetorician.

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I value "Nosce Teipsum" as a first thing for its *deep and original thinking,* i.e. for its *intellectual strength*—all the more remarkable that as the former part of the Memorial-Introduction shows he was only in his 28th-29th year when he composed it. Of its art I shall have somewhat to say anon: but regarding it as a "*philosophical* poem" and as a contribution to metaphysic, I place foremost the THOUGHT in it, as at once a characteristic and a merit (if merit be not too poor a word). DAVIES (along with FULKE GREVILLE, LORD BROOKE and DONNE) simply as Thinker on the profoundest problems of nature and human nature, seems to me to stand out pre-eminently; and in saying this, I regard it as sheer nonsense to exalt the workmanship at the expense of the material—to ask me to recognize in a bit of tin ingeniously and painstakingly etched into a kind of miracle of execution something co-equal with a solid bar of gold as it gleams i' the face of the sun in its purged and massive simpleness; or to put it unmetaphorically, I must pronounce judgment on the rank of a Poet *qua* a Poet fundamentally on the kind and quality of the thought on higher and deeper things that he puts into his verse and that he strikes out in others. Your mere artist-Poet is surely third-rate and must even go beneath the

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music-composer of to-day.

"Nosce Teipsum" as it was practically the earliest so it remains the most remarkable example of deep reflective-meditative thinking in verse in our language or in any language. The student of this great poem will very soon discover that within sometimes homeliest metaphors there is folded a long process of uncommon thought on the every-day facts of our mysterious existence. I call the thinking deep, because "Nosce Teipsum" reveals more than eyes that looked on the surface—reveals penetrative and bold descent to the roots of our being and reachings upward to the Highest. Your mere realistic word-painter of what he sees, is shallow beside a Poet who passes beneath the surface and circumstance and fetches up from sunless depths or down from radiant altitudes fact and facts—each contributory to that ultimate philosophy which while it shall accept every proved fact, will not rush off hysterically shouting "eureka," with ribald accusations of all that generations have held to be venerable and sustaining. I call the thinking original, for there is evidence everywhere in "Nosce Teipsum" that the penitent recluse of Oxford made his own self his study—as really if not as avowedly as Wordsworth.

I am aware in claiming originality for Davies

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that in that huge waste-basket of our Literature—Nichols' Literary Illustrations (Vol. IV. pp. 549-50) there is a letter from an Alexander Dalrymple, Esq., who is designated "the great hydrographer" to "Mr. Herbert" (the Bibliographer I opine) wherein he takes different ground. We must traverse his charge. He thus writes:—"Dear Sir, I have lately purchased the following old books" (he enumerates several) . . . . . "I have also got 'Wither's translation of Nemesius de Naturâ hominis' by which I find Sir John Davies's poem on the Immortality of the Soul is chiefly taken from Nemesius." . . . . . "I have picked up a tract in 4to by Thomas Jenner, with some very good plates, the marginal notes of which seem to be what the heads of Tate's edition of Sir John Davies's are taken from."

Were this true it would utterly take from "Nosce Teipsum" the first characteristic and merit I claim for it—deep and original thought. But it is absolutely untrue, an utter delusion, as any one will find who takes the pains that I have done, to read either Nemesius in the original, or what this sapient book-buyer mentions, Wither's translation. With my mind and memory full of "Nosce Teipsum" and the poem itself beside me, I have read and re-read every page, sentence and word of

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Nemesius and Wither (and there is a good deal of Wither in his translation: 1636) and I have not come upon a single metaphor or (as the old margin notes called them) "similie," or even observation in "Nosce Teipsum" drawn from Nemesius or Wither. The only element in common is that necessarily Nemesius adduces and discusses the opinions of the Heathen Philosophers on the many matters handled by him, and Sir John Davies does the same with equal inevitableness. But to base a charge of plagiarism against "Nosce Teipsum" on this, is to reason on the connection between Tenterden Steeple and Goodwin Sands (if the well-worn folly be a permissible reference). The following is the title-page of the quaint old tome and as it is by no means scarce, any reader can cross-question our witness: "The Nature of Man. A learned and useful Tract written in Greek by Nemesius, surnamed the Philosopher; sometime Bishop of a City in Phœnecia, and one of the most ancient Fathers of the Church. Englyshed, and divided into Sections, with briefs of their principal contents by Geo. Wither. London: Printed by M. F. for Henry Taunton in St. Duncan's Churchyard in Fleetstreet. 1636." (12° 21 leaves and pp. 661.) Chronologically—Wither's translation was not published until 1636, while "Nosce

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Teipsum" was published in 1599; but Nemesius' own book no more than Wither's warrants any such prepostorous statement as this Alexander Dalrymple makes. Even in the treatment of the "opinions" of the Heathen Philosophers which come up in Nemesius and in "Nosce Teipsum," the latter while 'intermedling' with the same, returns wholly distinct answers in refutation. The "opinions" themselves as being derived of necessity from the same sources are identical; but neither their statement nor refutation. Nemesius is ingenious and well-learned, but heavy and prosaic. Sir John Davies is light of touch and a light of poetic glory lies on the lamest "opinion." The "Father of the Church" goes forth to war with encumbering armour: the Poet naked and unarmed beyond the spear wherewith he 'pierces' everything, viz. human consciousness. Jenner's forgotten book had perhaps been read by Tate, but that concerns Tate not Sir John Davies. I pronounce it a hallucination to write "Sir John Davies' poem on the immortality of the Soul is chiefly taken from Nemesius." Not one line was taken from Nemesius.

Before passing on it may be well to illustrate here from the 'contents' of two chapters (representative of the whole) in Wither's Nemesius, the

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merely superficial agreement between them and "Nosce Teipsum." In the Poem under "The Soule of Man and the Immortalitie thereof" various opinions of its 'nature' are thus summarized:

> "One thinks the *Soule* is *aire*; another *fire*;
> Another *blood*, diffus'd about the heart;
> Another saith, the *elements* conspire,
> And to her *essence* each doth giue a part.
>
> *Musicians* think our *Soules* are *harmonies*,
> *Phisicians* hold that they *complexions* bee;
> *Epicures* make them swarmes of *atomies*,
> Which doe by chance into our bodies flee."

In Nemesius, c. 2. § 1. the 'headings' are: "I. The severall and different Opinions of the Ancients concerning the Sovl, as whether it be a Substance; whether corporeall, or incoporeall, whether mortal or immortal P. II. The confutation of those who affirme in general that the Sovl is a corporeall-substance. III. Confutation of their particular Arguments, who affirme that the Sovl is Blood, Water, or Aire." These are all common-places of ancient 'opinion' and of the subject; and anything less poetical than Nemesius' treatment of them is scarcely imaginable. Here if anywhere Davies' indebtedness must have been revealed; but not one scintilla of obligation suggests itself to the Reader. Again in the Poem

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after a subtle and very remarkable 'confutation' of the notion that the Soul is a thing of 'Sense' only, there comes proof "That the Soule is more than the Temperature of the humours of the Body;', and nowhere does Davies show a more cunning hand than in his statement of the 'false opinion.' Turning once more to Nemesius c. II. § 3, these are its 'headings:'—"I. It is here declared, that the Soul is not (as Galen implicitly affirmeth) a Temperature in general. II. It is here proved also, that the Soul is no particular temperature or quality, III. And it is likewise demonstrated that the Soul is rather governesse of the Temperatures of the Body, both ordering them, and subduing the vices which arise from the bodily tempers." Here again we would have expected some resemblances or suggestions; but again there is not a jot or tittle of either. Thus is it throughout. One might as well turn up the words used in "Nosce Teipsum" in a quotation-illustrated Dictionary of the English Language (such as Richardson's) and argue 'plagiarism' because of necessarily agreeing definitions, as from a few scattered places in "Nosce Teipsum" discussing the same topics, allege appropriation of Nemesius. Your mere readers of title-pages and contents, or glancers over indices are constantly

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blundering after this fashion. Dalrymple was one of these.*

The headings of the successive sections—removed in our text from the margins to their several places—suffice to inform us of the original lines of thought and research and illustration pursued in "Nosce Teipsum," and thither I refer the Reader. The merest glance will show that in "Nosce Teipsum" you have the whole breadth of the field traversed—and that for the first time in Verse. I can only very imperfectly illustrate either the depth or the originality of the poem. Almost as at the opening of the book, take these, uniting both :—

"And yet, alas, when all our lamps are burnd,
Our bodyes wasted, and our spirits spent;
When we haue all the learnèd *Volumes* turn'd,
Which yeeld mens wits both help and ornament:

---

* Of course it had been no dishonour to the (comparatively) young man if he had fetched from Nemesius facts or reasonings or even illustrations—with all acknowledgment of obligation. A Thinker is bound to make himself familiar with preceding thought. But as simple matter-of-fact I declare there is not the least shadow of warrant for Dalrymple's statement. Surely this is very different from being "indignant at the suggestion"—as empty *Saturday Reviewers* have said in a paper civil enough to myself but ignorant and unseeing in regard to Davies as Poet and Man.

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What can we know? or what can we descerne?
When *Error* chokes the windowes of the minde,
The diuers formes of things, how can we learne,
That haue been euer from our birth-day blind?

When *Reasone's* lampe, which (like the *sunne* in skie)
Throughout *Man's* little world her beames did spread;
Is now become a sparkle, which doth lie
Vnder the ashes, halfe extinct, and dead:

How can we hope, that through the eye and eare,
This dying sparkle, in this cloudy place,
Can recollect these beames of knowledge cleere,
Which were infus'd in the first minds by grace?

So might the heire whose father hath in play
Wasted a thousand pounds of ancient rent;
By painefull earning of a groate a day,
Hope to restore the patrimony spent.

Thus wits that diu'd most deepe and soar'd most hie
Seeking Man's pow'rs, haue found his weaknesse such:
"Skill comes so slow, and life so fast doth flie,
"We learne so little and forget so much.

For this the wisest of all morall men
Said, '*He knew nought, but that he nought did know*';
And the great mocking-Master mocks not then,
When he said, '*Truth was buried deepe below.*'

For how may we to others' things attaine,
When none of vs his owne soule vnderstands?
For which the Diuell mockes our curious braine,
When, '*Know thy selfe*' his oracle commands.

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For why should wee the busie Soule beleeue,
When boldly she concludes of that and this;
When of her selfe she can no iudgment giue,
Nor how, nor whence, nor where, nor what she is?

All things without, which round about we see,
We seeke to knowe, and how therewith to doe;
But that whereby we *reason, liue and be*,
Within our seules, we strangers are thereto.

We seek to know the mouing of each spheare,
And the strange cause of th' ebs and flouds of *Nile;*
But of that clock, within our breasts we beare,
The subtil motions we forget the while.

We that acquaint our selues with euery *Zoane*
And passe both *Tropikes* and behold the *Poles*,
When we come home, are to our selues vnknown,
And vnaquainted still with our owne *Soules*.

We study *Speech* but others we perswade;
We *leech-craft* learne, but others cure with it;
We interpret *lawes*, which other men haue made,
But reade not those which in our hearts are writ."

Again:—

IN WHAT MANNER THE SOULE IS UNITED TO THE BODY.

BUT how shall we this *union* well expresse?
Nought ties the *soule;* her subtilite is such
She moues the bodie, which she doth possesse,
Yet no part toucheth, but by *Vertue's* touch.

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Then dwels shee not therein as in a tent,
  Nor as a pilot in his ship doth sit;
  Nor as the spider in his web is pent;
  Nor as the waxe retaines the print in it;

Nor as a vessell water doth containe:
  Nor as one liquor in another shed;
  Nor as the heat doth in the fire remaine;
  Nor as a voice throughout the ayre is spread.

But as the faire and cheerfull *Morning light*,
  Doth here and there her siluer beames impart,
  And in an instant doth herselfe vnite
  To the transparent ayre, in all, and part:

Still resting whole, when blowes th' ayre diuide:
  Abiding pure, when th' ayre is most corrupted;
  Throughout the ayre, her beams dispersing wide,
  And when the ayre is tost, not interrupted:

So doth the piercing *Soule* the body fill,
  Being all in all, and all in part diffus'd;
  Indiuisible, incorruptible still,
  Not forc't, encountred, troubled or confus'd.

And as the *sunne* aboue, the light doth bring,
  Though we behold it in the ayre below;
  So from th' Eternall Light the *Soule* doth spring,
  Though in the body she her powers doe show.

Further, "An Acclamation":

AN ACCLAMATION.

O! what is Man (great Maker of mankind!)
  That Thou to him so great respect dost beare!

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That Thou adornst him with so bright a mind,
Mak'st him a king, and euen an angel's peere!

O! what a liuely life, what heauenly power,
What spreading vertue, what a sparkling fire!
How great, how plentifull, how rich a dower
Dost Thou within this dying flesh inspire!

Thou leau'st Thy print in other works of Thine,
But Thy whole image Thou in Man hast writ;
There cannot be a creature more diuine,
Except (like Thee) it should be infinit.

But it exceeds man's thought, to think how hie
God hath raisd *Man*, since *God a Man* became;
The angels doe admire this *Misterie*,
And are astonisht when they view the same.

Again:—

THAT THE SOULE IS IMMORTAL, AND CANNOT DIE.

NOR hath he giuen these blessings for a day,
Nor made them on the bodie's life depend;
The *Soule* though made in time, *suruives for aye*,
And though it hath beginning, sees no end.

Her onlely *end*, is *neuer-ending* blisse;
Which is *th' eternall face of God to see*;
Who *Last of Ends*, and *First of Causes*, is:
And to do this, she must *eternall* bee.

How senselesse then, and dead a soule hath hee,
Which *thinks* his *soule* doth with his body die!
Or *thinkes* not so, but so would haue it bee,
That he might sinne with more securitie.

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For though these light and vicious persons say,
Our *Soule* is but a smoake, or ayrie blast;
Which, during life, doth in our nostrils play,
And when we die, doth turne to wind at last:

Although they say, '*Come let us eat and drinke*';
Our life is but a sparke, which quickly dies;
Though thus they *say*, they know not what to think,
But in their minds ten thousand doubts arise.

Therefore no heretikes desire to spread
Their light opinions, like these *Epicures*:
For so the staggering thoughts are comfortèd,
And other men's assent their doubt assures.

Yet though these men against their conscience striue
There are some sparkles in their flintie breasts
Which cannot be extinct, but still reuiue;
That though they would, they cannot quite bee *beasts*;

But whoso makes a mirror of his mind,
And doth with patience view himselfe therein,
His *Soule's* eternitie shall clearly find,
Though th' other beauties be defac't with sin.

Further, "An Acclamation":—

An Acclamation.

O ignorant poor man! what dost thou beare
Lockt vp within the casket of thy breast?
What iewels, and what riches hast thou there!
What heauenly treasure in so weak a chest!

Looke in thy *soule*, and thou shalt *beauties* find,
Like those which drownd *Narcissus* in the flood

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Honour and *Pleasure* both are in thy mind,
And all that in the world is counted *Good*.

Thinke of her worth, and thinke that God did meane
This worthy mind should worthy things imbrace;
Blot not her beauties with thy thoughts vnclean,
Nor her dishonour with thy passions base;

Kill not her *quickning power* with surfettings,
Mar not her *Sense* with sensualitie;
Cast not her serious wit on idle things:
Make not her free-*will*, slaue to vanitie.

And when thou think'st of her *eternitie*,
Thinke not that *Death* against her nature is;
Thinke it a *birth*; and when thou goest to die,
Sing like a swan, as if thou went'st to blisse.

And if thou, like a child, didst feare before,
Being in the darke, where thou didst nothing see:
Now I haue brought thee *torch-light* feare no more;
Now when thou diest, thou canst not hud-winkt be.

And thou, my *Soule*, which turn'st thy curious eye,
To view the beames of thine owne forme diuine;
Know, that thou canst know nothing perfectly,
While thou art clouded with this flesh of mine.

Take heed of *ouer-weening*, and compare
Thy peacock's feet with thy gay peacock's traine;
Study the best, and highest things, that are,
But of thy selfe, an humble thought retaine.

Cast down thy selfe, and onely striue to raise
The glory of thy Maker's sacred Name;
Vse all thy powers, that Blessed Power to praise,
Which giues the power to *bee*, and *vse the same*.

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Throughout it is to be noticed how admirably and subtlely the Poet-metaphysician distinguishes between the senses and sense or the instruments and the soul itself in its wide consciousness. Reasoning and 'similies' and all keep a firm grasp of the ultimate appeal. Equally is it to be kept in mind that in his arguing for God in all He is and does e.g. in the origin of evil, in the primal purity of the soul and its taint in the body and the, like it is not of God *qua* God simply he speaks, but of the God of Revelation, God in Christ in the Gospel, God as thus to be implicitly trusted with or without reasons, as inevitably righteous as He is wise and just as He is good. It is not any God executing arbitrarly decree and purpose, but the God of Christianity with Whom men have to do. This realized takes off the apparent hard-driving and inexorableness of Davies's reasoning, wherein God is everything and man nothing. Then in "Orchestra" with all its brightness and playfulness LOVE is the recognized principle in the Universe.

Finally, here is a simile well-wrought in itself and accidentally to be for ever associated with a celebrated criticism :—

THE MOTION OF THE SOULE.

. . . . how can shee but immortall bee ?

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When with the motions of both *Will* and *Wit*,
She still aspireth to eternitie,
And neuer rests, till she attaine to it?

Water in conduit pipes, can rise no higher
Then the wel-head, from whence it first doth spring:
Then sith to eternall GOD shee doth aspire,
Shee cannot be but an eternall thing.

The second stanza contains a metaphor that was stolen and murdered as well, by Robert Montgomery. Concerning *his* use of it Macaulay thus wrote in his merciless review:—"We would n be understood, however, to say that Mr. Robert Montgomery cannot make similitudes for himself. A very few lines further on we find one which has every mark of originality and on which we will be bound, none of the poets whom he has plundered will ever think of making reprisal:—

'The soul aspiring, pants its source to mount,
As streams meander level with their fount."

"We take this to be on the whole the worst similitude in the world. In the first place, no stream meanders, or can possibly meander level with its fount. In the next place, if streams did meander level with their fount, no two motions can be less like each other than that of meandering level and that of mounting upwards." True; but none the less is the original 'spoiled' and

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despoiled metaphor, acurate and vivid.

If the Reader will surrender himself to the task, he will be rewarded for studying and re-studying the entire poem of "Nosce Teipsum;" and unless I very much mistake, will then regard Hallam's judgment on it as inadequate rather than exaggerate, as (with intercalated remarks), thus: "A more remarkable poem [than Drayton's and Daniel's] is that of Sir John Davies, afterwards Chief Justice of Ireland [a mistake], entitled 'Nosce Teipsum,' published in 1599, usually, though rather inaccurately, called 'On the Immortality of the Soul.' Perhaps no language can produce a poem, extending to so great a length, of more condensation of thought, or in which fewer languid verses will be found. Yet, according to some definitions [of poetry] the 'Nosce Teipsum' is wholly unpoetical, inasmuch as it shows no passion [a greater blunder still] and little fancy [a third mistake]. If it reaches the heart at all, it is through the reason. But since strong argument in terse and correct style fails not to give us pleasure in prose, it seems strange that it should lose its effect when it gains the aid of regular metre to gratify the ear and assist the memory. Lines there are in Davies which far outweigh much of the descriptive and

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imaginative poetry of the last two centuries, whether we estimate them by the pleasure they impart to us, or by the intellectual vigour they display. Experience has shown us that the faculties familiarly deemed poetical are frequently exhibited in a considerable degree, but very few have been able to preserve a perspicuous beauty without stiffness or pedantry (allowance made for the subject and the times), in metaphysical reasonining, so successfully as Sir John Davies."† The alleged "no passion" is contradicted by the various pathetic autobiographic introspections and confessions brought out in this Memorial-Introduction, and not less so by the outbursts of adoration and praise that thunder up like the hosannahs before the great White Throne. The similarly alleged "little fancy" is one of manifold proofs that the critic was the most superficial of all imaginable readers with so much pretention. "Nosce Teipsum" is radiant as the dew-bedabbled grass with delicacies of fancy, not a few of the "fancies" being as exquisitely touched as divine work.

Campbell in his "Essay on English Poetry"

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† Introduction to the Literature of Europe in the 15th, 16th, and 17th Centuries: Vol. II., p. 227, edn. 1860.

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(prefixed to his "Specimens") may be read with interest after Hallam. Accepting from Johnson as Johnson from Dryden the name of "metaphysical poets," he observes:—"The term of metaphysical poetry would apply with much more justice to the quatrains of Sir John Davies and those of Sir Fulke Greville, writers who, at a later period, found imitators in Sir Thomas Overbury and Sir William Davenant. Davies's poem on the Immortality of the Soul, entitled "*Nosce Teipsum*," will convey a much more favourable idea of metaphysical poetry than the wittiest effusions of Donne and his followers. Davies carried abstract reasoning into verse with an acuteness and felicity which have seldom been equalled. He reasons undoubtedly with too much labour, formality, and subtlety, to afford uniform poetical pleasure. The generality of his stanzas exhibit hard arguments interwoven with the pliant materials of fancy so closely, that we may compare them to a texture of cloth and metallic threads, which is cold and stiff, while it is splendidly curious. There is this difference, however, between Davies and the commonly-styled metaphysical poets, that *he* argues like a hard thinker, and *they*, for the most part, like madmen. If we conquer the drier parts of Davies' poem, and bestow a little

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attention on thoughts which were meant, not to gratify the indolence, but to challenge the activity of the mind, we shall find in the entire essay fresh beauties at every perusal: for in the happier parts we come to logical truths so well illustrated by ingenious similes, that we know not whether to call the thoughts more poetically or philosophically just. The judgment and fancy are reconciled, and the imagery of the poem seems to start more vividly from the surrounding shades of abstraction."

The 'coldness' of 'cloth and metallic threads' which the critic applies to the 'hard arguments' of *Nosce Teipsum* is a mere imagination. But besides, the 'metallic threads' are not for warmth but for splendour. The lining (not the adornment) of the 'splendidly curious' garment is to be looked for warmth. Similarly the 'hard arguments' would have been unpoetical as unphilosophical had they been 'warm' with the warmth of the 'clothing' in similes and fancies. The 'hardness' is where it ought to be—in the thinking: but it is a hardness like the bough that is green with leafage and radiant with bloom and odorous with 'sweet scent' and pliant to every slightest touch of the breeze. The leaf and bloom start from the 'hard' bough, rightly, fittingly 'hard' to its

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utmost twig. The alleged 'too much labour' is singularly uncharacteristic. As for the 'madness' I can but exclaim—Oh for more of such 'fine lunacy' as in Donne is condemned! His and compeers' 'madness' is worth cart-loads of most men's sanity.

In our own day Dr. George Macdonald has spoken more wisely if still somewhat superficially of "*Nosce Teipsum*" in his charming "England's Antiphon." Having explained that by "Immortality of the Soul' is intended "the spiritual nature of the soul, resulting in continuity of existence," he proceeds:—"It [*Nosce Teipsum*] is a wonderful instance of what can be done for metaphysics in verse, and by means of imaginative or poetic embodiment generally. Argumentation cannot of course naturally belong to the region of poetry, however well it may comport itself when there naturalized; and consequently, although there are most poetic no less than profound passages in the treatise, a light scruple arises whether its constituent matter can properly be called poetry. At all events, however, certain of the more prosaic measures and stanzas lend themselves readily, and with much favour, to some of the more complex of logical necessities. And it must be remembered that in human speech, as in the

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human mind, there are no absolute divisions: power shades off into feeling; and the driest logic may find the heroic couplet render it good service.' (pp. 105-6.) The 'scruple' must be 'light' indeed that has to decide whether the 'reasoning' of "Nosce Teipsum" be or be not 'poetry.' It is astounding that at this time o' day any should attempt to exclude the highest region of the intellect and its noblest occupation from poetry. Poetry I must hold absolutely is poetry, whatever be its matter and form if the thinking be glorified by imagination or tremulous with emotion. It is sheer folly to refuse to the Poet any material within the compass of the universe. Especially deplorable is it to have to argue for possibilities of poetry in the greatest of all thinking, viz., metaphysics, in the face of such actualities of achievement as in Davies and Lord Brooke and Donne earlier and Wordsworth and Shelley later.

A second characteristic of "Nosce Teipsum" that calls for notice is its *perfection of workmanship* shown in the *mastery of an extremely difficult stanza,* as well as its solidity of material. Here unquestionably Sir John Davies far excels Lord Brooke and Donne, and later, Sir William Davenant in "Gondibert." The two former are occasionally (it must be granted) semi-inarticulate, and the

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last is very often monotonous and trying. "Nosce Teipsum" is throughout articulate and unmistakeable, and never flags. You have a fear o' times that a metaphor will prove grotesque or mean: or a vein of thought pinch and go out from ore to bare limestone. But invariably an imaginative touch, or a colour-like epithet, or a thrill of emotion, lifts up the mean into a transfiguring atmosphere as of sun-set purples and crysolites, and gives to grotesquest gargoyles (as of cathedrals) a strange fitness. Then when a thought or illustration seems about to end debasedly, another forward-carrying and ennobling, swiftly succeeds.

There is more than dexterity, there is consummate art—the art of a conscious master—in the inter-weaving of the lines and stanzas of "Nosce Teipsum." Professor Craik recognised the difficulty and the triumph, but fails by ultra-ingenuity in accounting for either the selection of the measure or the miracle of its continuous success. His criticism is worth recalling, thus:—"A remarkable poem of this age . . . . . is the 'Nosce Teipsum' of Sir John Davies . . . . . a philosophical poem, the earliest of the kind in the language. It is written in rhyme, in the common heroic ten-syllable verse, but disposed in quatrains, like the early play of Misogonus, already mentioned, and

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other poetry of the same era, or like Sir Thomas Overbury's poem of 'The Wife,' the 'Gondibert' of Sir William Davenant, and the 'Annus Mirabilis' of Dryden, at a later period. No one of these writers has managed this diffcult stanza so successfully as Davies; it has the disadvantage of requiring the sense to be in general closed at certain regularly and quickly-recurring turns, which yet are very ill adapted for an effective pause; and even all the skill of Dryden has been unable to free it from a certain air of monotony and languor,—a circumstance of which that poet may be supposed to have been himself sensible, since he wholly abandoned it after one or two early attempts. Davies, however, has conquered its difficulty; and, as has been observed, perhaps no language can produce a poem, extending to so great a length, of more condensation of thought, or in which fewer languid verses will be found. (Hallam, as before.) In fact, it is by this condensation and sententious brevity, so carefully filed and elaborated, however, as to involve no sacrifice of perspicuity or fulness of expression, that he has attained his end. Every quatrain is a pointed expression of a separate thought, like one of Rochefoucault's maxims; each thought being, by great skill and painstaking in the packing, made exactly

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to fit and to fill the same case. It may be doubted, however, whether Davies would not have produced a still better poem if he had chosen a measure which would have allowed him greater freedom and real variety; unless, indeed, his poetical talent was of a sort that required the suggestive aid and guidance of such artificial restraints as he had to cope with in this; and what would have been a bondage to a more fiery and teeming imagination, was rather a support to his."‡

Most of this must be read *cum grano salis.* Davies elected his measure and stanza with evidently entire spontaneity; and it is an odd reversal of the simple matter of fact to ascribe the 'artificial restraints' chosen, to an absence 'of a fiery and teeming imagination,' when, as all observation demonstrates, the more fiery and fecund the imagination of a Poet, the more exquisitely obedient is he to the subtlest and most intricate movements of his measure—just as the bluest-blooded race-horse is a law to itself whereas your stolid dray-cart or plough-drawer needs the "artificial restraints" of all kinds of gear, and the constraint of whip and blow and vociferation. I

‡ *A Compendious History of English Literature*, &c., Vol. I., p. 577, edn. 1866.

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can well suppose that but for the "Fairy Queen" Sir John Davies might have chosen its stanza, but just as to-day "In Memoriam" has taken to itself its form and music to the exclusion of every other —though a very ancient English measure—so Spenser's immortal poem precluded "Nosce Teipsum" following in the same. I cannot admit "artificial restraints" in the sense of needed restraints or aid. There was the stanza, and the genius of Sir John Davies appropriated it—since Spenser's, in all worship, could not be taken—and like a great Vine, clad its natural slenderness and poorness of build with wealth of bright green leafage and clustered fruitage. The nicety and daintiness of workmanship, the involute and nevertheless firmly-completed and manifested imagery of "Nosce Teipsum" wherewith this nicety and daintiness are wrought, place Sir John Davies artistically among the finest of our Poets. Southey wrote decisively on this:—"Sir John Davies and Sir William Davenant, avoiding equally the opposite faults of too artificial and too careless a style, wrote in numbers which, for precision and clearness, and felicity and strength, have never been surpassed." For 'felicity' I should have said 'flexibility.'*

* To Southey's praise be it remembered, that he was the

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Again, our examples of the mastery and perfection of workmanship must be brief; but take these:—

"Nor can her wide imbracements fillèd bee;
For they that most, and greatest things embrace,
Inlarge thereby their minds' capacitie,
As streames enlarg'd, inlarge the channel's space.

All things receiu'd, doe such proportion take,
As those things haue, wherein they are receiu'd:
So little glasses little faces make,
And narrow webs on narrow frames be weau'd;

Then what vast body must we make the *mind*
Wherein are men, beasts, trees, towns, seas, and lands;
And yet each thing a proper place doth find,
And each thing in the true proportion stands?

Doubtlesse this could not bee, but that she turnes
Bodies to spirits, by *sublimation* strange;
As fire conuerts to fire the things it burnes
As we our meats into our nature change.

---

first emphatically to regret that there had been no collective edition of Sir John Davies's Works, as thus: "It may be regretted that he did not leave representatives who would have thought it a duty and an honour to publish all that could be collected of his writings; thus erecting the best and most enduring monument to his memory." (British Poets: Chaucer to Jonson: p. 686). Our edition of his Prose and Verse fulfils Southey's wish.

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From their grosse *matter* she abstracts the *formes*,
And draws a kind of *quintessence* from things;
Which to her proper nature she transformes,
To bear them light on her celestiall wings:

This doth she, when, from things *particular*,
She doth abstract the *universall kinds;*
Which bodilesse and immateriall are,
And can be lodg'd but onely in our minds:

And thus from diuers *accidents* and *acts*,
Which doe within her obseruation fall,
She goddesses, and powers diuine, abstracts:
As *Nature*, *Fortune*, and the *Vertues* all."

Again;--

Are they not sencelesse then, that thinke the Soule
Nought but a fine perfection of the *Sense;*
Or of the formes which *fancie* doth enroule,
A quicke resulting, and a *consequence?*

What is it then that doth the *Sense* accuse,
Both of *false judgements*, and *fond appetites?*
What makes vs do what *Sense* doth most refuse?
Which oft in torment of the *Sense* delights?

Sense thinkes the *planets*, *spheares* not much asunder;
What tels vs then their distance is so farre?
Sense thinks the lightning borne before the thunder;
What tels vs then they both together are?

When men seem crows far off vpon a towre,
Sense saith, th'are crows; what makes vs think them men?
When we in *agues*, thinke all sweete things sowre,
What makes vs know our tongue's false judgement then?

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What power was that, whereby *Medea* saw,
And well approu'd, and prais'd the better course,
When her rebellious *Sense* did so withdraw
Her feeble powers, as she pursu'd the worse?

Did *Sense* perswade *Vlisses* not to heare
The mermaid's songs, which so his men did please;
As they were all perswaded, through the eare
To quit the ship, and leape into the *seas*?

Could any power of *Sense* the *Romane* moue,
To burn his own right hand with courage stout?
Could *Sense* make *Marius* sit vnbound, and proue
The cruell lancing of the knotty gout?

Doubtless in *Man* there is a *nature* found,
Beside the *Senses*, and aboue them farre;
'Though most men being in sensuall pleasures drownd,
'It seems their *Soules* but in their *Senses* are.

If we had nought but *Sense*, then only they
Should haue sound minds, which haue their *Senses* sound;
But *Wisdome* growes, when *Senses* doe decay,
And *Folly* most in quickest *Sense* is found.

If we had nought but *Sense*, each liuing wight,
Which we call *brute*, would be more sharp then we;
As hauing *Sense's apprehensiue might*,
In a more cleere, and excellent degree.

But they doe want that *quicke discoursing power*,
Which doth in vs the erring *Sense* correct;
Therefore the *bee* did sucke the painted flower,
And *birds*, of grapes, the cunning shadow, peckt.

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Sense outsides knows; the Soule throgh al things sees;
Sense, circumstance; she, doth the *substance* view;
Sense sees the barke, but she, the life of trees;
Sense heares the sounds, but she, the concords true.

Once more:—

I know my bodie's of so fraile a kind,
As force without, feauers within can kill;
I know the heuenly nature of my minde,
But 'tis corrupted both in wit and will:

I know my *Soule* hath power to know all things,
Yet is she blinde and ignorant in all;
I know I am one of Nature's little kings,
Yet to the least and vilest things am thrall.

I know my life's a paine and but a span,
I know my *Sense* is mockt with euery thing:
And to conclude, I know my selfe a MAN,
Which is a *proud*, and yet a *wretched* thing.

If the pathos and grandeur of Pascal be anticipated in these lines, Pope has certainly appropriated Davies' favourite metaphor of the 'spider.' Witness the Sense of feeling illustrated:—

Much like a subtill spider, which doth sit
In middle of her web, which spreadeth wide;
If ought doe touch the vtmost thread of it,
Shee feeles it instantly on euery side.

So in the *Essay of Man*:—

"The spider's touch, how exquisitely fine,
Feels at each thread, and lives along the line."

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Another now familiar 'metaphor' also occurs in "Nosce Teipsum":—

"Heere *Sense's apprehension*, end doth take;
As when a stone is into water cast,
One circle doth another circle make,
Till the last circle touch the banke at last."

These two characteristics, viz., (1) *deep and original thinking*, (2) *perfection of workmanship, or mastery of an extremely difficult stanza*—embrace that in "Nosce Teipsum," regarded broadly, which I am anxious to have the Reader recognize and 'prove' for himself. Subsidiary to them is one other thing—not shared with many of our Poets and therefore demanding specific statement—viz. its *condensation throughout*. Hallam and Craik have called attention to this; and the student cannot fail to be struck with it. It is not simply that the stanzas are as so many rings of gold each complete in itself—much as Proverbs are—but that whether it be idea or opinion or metaphor there is no beating of it out, as though yards of gold-leaf or tin-foil were more valuable than the relatively small solid ore that has been so manipulated: or the common mistake of imagining that a pound of feathers is heavier than a pound of lead. From Dean Donne until now "comparisons are odious." Nevertheless when one recalls the

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attenuated thought and the blatant verbiage of not a few of our Poets, this resolute sifting out of everything extraneous is not less noticeable than commendable. It assures us that the Poet was conscious of his resources—of his unused wealth of thought and imagination and fancies. He who compacts his carbon into a Koh-i-noor has infinite supplies of it. Similarly a Poet who could and did so lavishly add great thought to great thought and vivid metaphor to vivid metaphor, and still go on adding in smallest possible compass, declares his intellect to be of the highest. I take two stanzas as illustrative equally of condensed thought and condensed metaphor concerning our First Parents :—

When their reasons eye was sharpe and cleare,
And (as an eagle can behold the sunne)
Could haue approcht th' Eternall Light as neare,
As the intellectuall angels could haue done:

Euen then to them the *Spirit of Lyes* suggests
That they were blind, because they saw not ill;
And breathes into their incorrupted brests
A curious *wish*, which did corrupt their *will*.

Your Rhetorician-poet would have expatiated on his 'Eagle' through a hundred lines. Your mere Metaphysician would have entangled himself with distinctions between 'wish' and 'will' end-

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lessly. Similarly how succinctly memorable is this of man's un-willinghood to know himself—every stanza a perfect circle but all the circles interlinked:—

We study *Speech* but others we perswade;
We *leech-craft* learne, but others cure with it;
We interpret *lawes*, which other men haue made,
But reade not those which in our hearts are writ.

It is because the minde is like the eye,
Through which it gathers knowledge by degrees—
Whose rayes reflect not, but spread outwardly
Not seeing it selfe when other things it sees?

No, doubtlesse; for the mind can backward cast
Vpon her selfe, her vnderstanding light;
But she is so corrupt, and so defac't,
As her owne image doth her selfe affright.

As in the fable of the Lady faire,
Which for her lust was turnd into a cow;
When thirstie to a streame she did repaire,
And saw her selfe transform'd she wist not how:

At first she startles, then she stands amaz'd,
At last with terror she from thence doth flye;
And loathes the watry glasse wherein she gaz'd,
And shunnes it still, though she for thirst doe die:

Euen so *Man's Soule* which did God's image beare,
And was at first faire, good, and spotless pure;
Since with her *sinnes* her beauties blotted were,
Doth of all sights her owne sight least endure:

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For euen at first reflection she espies,
Such strange *chimeraes*, and such monsters there;
Such toyes, such *antikes*, and such vanities,
As she retires, and shrinkes for shame and feare.

And as the man loues least at home to bee,
That hath a sluttish house haunted with *spirits;*
So she impatient her owne faults to see,
Turnes from her selfe and in strange things delites.

For this few *know themselves:* for merchants broke
View their estate with discontent and paine;
And *seas* are troubled, when they doe reuoke
Their flowing waues into themselues againe.

How daintily put and how divinely ennobled by the sacred reference is this of the soul's yearning after that higher ideal that is ever receding horizon-like to our vision:—

Then as a *bee* which among weeds doth fall,
Which seeme sweet flowers, with lustre fresh and gay;
She lights on that, and this, and tasteth all,
But pleased with noone, doth rise, and soare away;

So, when the *Soule* finds here no true content,
And, like *Noah's* doue, can no sure footing take;
She doth returne from whence she first was sent,
And flies to *Him* that first her wings did make.

For condensed and close-packed thought and imagery the 'Reasons' for the 'Immortalitie of the Soule' are not to be equalled anywhere.

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We may not linger over "Nosce Teipsum." Passing to the "Hymnes to Astræa" and "Orchestra, or a Poeme of Dauncing," while they have the same characteristics with "Nosce Teipsum," they yet suggest another characteristic in Davies as a Poet—*unexpectedness of brilliant and great things*. You count on the Lark's up-springing and the Lark's idyllic song, if you are traversing bladed or daisied field; but you are startled if it rise from the mired or dusty street or the inodorous slum. You look for the eagle when you have climbed Shehallion and other Highland mountain fastnesses; but suppose it were to flap out upon you as you paced into your semi-suburban villa. So in "Nosce Teipsum," as seen, deep thought perfectly worked is what knowing the Poet you look for therein; but even in "Hymnes to Astræa" and "Orchestra" you very soon discover that it is still the Poet of "Nosce Teipsum" who sings. The moods of thought are airier and more vivacious substantively, but the thinking and shaping and colouring of imagination is the same; and 'unexpected' is really *the* word that seems to me to express the out-flashing of the higher faculty. Turning to the "Hymnes to Astræa," how exquisite are the fancy and flattery of Hymne V., "To the Larke," as she is wooed

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by the Poet-Courtier to be his minstrel to 'sing' of Elizabeth. You do not for a moment feel the 'artificial restraint' of the margin-letters that go to form Elizabetha Regina :—

Earley, cheerfull, mounting Larke,
Light's gentle vsher, Morning's clark,
In merry notes delighting;
Stint awhile thy song, and harke,
And learn my new inditing.

Beare vp this hymne, to heau'n it beare,
Euen vp to heau'n, and sing it there,
To heau'n each morning beare it
Haue it set to some sweet sphere,
And let the Angels heare it.

Renowned Astræa, that great name,
Exceeding great in worth and fame,
Great worth hath so renownd it;
It is Astræa's name I praise,
Now then, sweet Larke, do thou it raise,
And in high Heauen resound it.

Meet companion to this is Hymne VII., "To the Rose:"—

Eye of the Garden, Queene of flowres,
Love's cup wherein he nectar powres,
Ingendered first of nectar;
Sweet nurse-child of the Spring's young howres,
And Beautie's faire character.

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Best iewell that the Earth doth weare,
Euen when the braue young sunne draws near,
To her hot Loue pretending;
Himself likewise like forme doth beare,
At rising and descending.

Rose of the Queene of Loue belou'd;
England's great King's diuinely mou'd,
Gave Roses in their banner;
It shewed that Beautie's Rose indeed,
Now in this age should them succeed,
And raigne in more sweet manner.

That the large and intense homage of Davies (among his illustrious contemporaries), in these "Hymnes" was genuine not simulated, spontaneous not mercenary, the apostrophe to Envy protests. With an echo of the old 'exegi monumentum' or reminiscence of Shakespeare's then not long published Sonnets, he thus writes:—

Enuy, goe weepe; my Muse and I
Laugh thee to scorne; thy feeble eye
Is dazeled with the glory
Shining in this gay poesie,
And little golden story.

Behold how my proud quill doth shed
Eternall *nectar* on her head;
The pompe of coronation
Hath not such power her fame to spread,
As this my admiration.

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Respect my pen as free and franke
Expecting not reward nor thanke,
Great wonder onely moues it;
I never made it mercenary,
Nor should my Muse this burthen carrie
As hyr'd, but that she loues it.

Then in "Orchestra" you are again and again reminded that mere sport of wit though it be, "suddaine, rash, half-capreol of my wit," as he himself calls it to Martin, it is a man of rare genius who sports. So much so that ever and anon you perceive, as Cleopatra of her Anthony:

——— "his delights
Were dolphin-like; *they show'd his back above*
The element they lived in." (v. 2.)

That is, even among the trivialities about 'Dauncing' and the frivolities of laudation, you are re-called to grander things—as in the Summer one sees breaks of blue in the over-arching sky above some miserable Pick-nick party desecrating some glorious forest-dell. I cull two out of manifold examples of the unexpectedness that I now wish to point out—as thus of the antiquity yet vitality of 'Dauncing':—

"Thus doth it equall age with age inioy,
And yet in lustie youth for euer flowers;
Like loue his sire, whom Paynters make a boy,
Yet is the eldest of the heau'nly powers;

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Or like his brother Time, whose wingèd howers
Going and comming will not let them dye,
But still preserve him in his infancie."

That is 'brilliant' but this is 'great,' indeed magnificent, of the Sea:—

"Loe the *Sea* that fleets about the Land,
And like a girdle clips her solide waist,
Musicke and measure both doth vnderstand;
For his great chrystall eye is always cast
Vp to the Moone, and on her fixèd fast;
And as she daunceth in her pallid sphere,
So daunceth he about her Center heere."

I know not where, outside of Milton, to match that personification of the Sea, with its "great chrystall eye"; and "palid" is as tenderly delicate as the other is grand. Coleridge must have carried it in his omniverous memory, for surely one of the most memorable of the stanzas in his "Ancient Mariner" drew its inspiration thence, as thus:—

"Still as a slave before his lord,
The ocean hath no blast;
His great bright eye most silently
Up to the Moon is cast—
If he may know which way to go;
For she guides him smooth or grim.
See, brother, see! how graciously
She looketh down on him." (Pt. VI.)

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At this point it may interest some to read Sir John Harington's welcome to the Poet on the publication of 'Orchestra', thus:—

Of Master John Dauies *Booke of Dancing.*
To Himselfe.

While you the Planets all doe set to dancing,
Beware such hap, as to the Fryer was chancing:
Who preaching in a Pulpit old and rotten,
Among some notes, most fit to be forgotten:
Vnto his Auditory thus he vaunts,
To make all Saints after his pype to dance:
It speaking which, as he himselfe aduances,
To act his speech with gestures, lo, it chances,
Downe fals the Pulpit, sore the man is brusèd,
Neuer was Fryer and Pulpit more abusèd.
Then beare with me, though yet to you a stranger,
To warne you of the like, nay greater danger.
For though none feare the falling of those sparkes,
(And when they fall, t'will be good catching Larkes)
Yet this may fall, that while you dance and skip,
With female Planets, sore your foote may trip,
That in your lofty Caprioll and turne
Their motion may make your dimension burne."
(Epigrams, Book II. 67.)

I am tempted to further critical examination of this very remarkable Poetry; but feel constrained by already transgressed limits to withold what I had written. On the 'Epigrams,' I would refer to the short Memorial-Introduction in Vol. Ist.

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(pp 21-26). Here I must content myself with one flagrant appropriator of Davies's Epigrams, in the person of William Winstanley in his "The Muses Cabinet stored with variety of Poems, both pleasant and profitable. London 1655." Thus we read "On Rembombo":—

"Rembombo having spent all his estate
Went to the wars to prove more fortunate.
Being return'd, he speaks such warlike words,
No dictionary half the like affords:
He talks of flankers, gabions and scalados,
Of curtneys, parapets & palizados,
Retreats and triumphs & of carnisadoes,
Of sallies, halfe-moones & of ambuscadoes:
I to requite the fustian termes he uses,
Reply with words belonging to the Muses;
As Spondes, Dactiles and Hexameters,
Stops, commas, accents, types, tropes, & pentameters,
Madrigalls, Epicediums, elegies,
Satyres, Iambicks, & Apostrophes,
Acrosticks, Aquiuoques, & epigrams:
Thus talking and being understood by neither,
We part wise as when we came together." (p 43.)

Let the Reader compare this with Davies' Epigram (Vol. Ist, pp. 327-8). Various others are similarly transmogrified; and John Heath also is 'spoiled' (in a double sense). Yet has Winstanley the impudence to close his volume bitingly thus:—

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"Cease Muse, here comes a criticke, close thy page,
These lines are not strong enough for this age;
The nice new-fangled readers of these times
Will scarcely relish thy plain country rimes."

There are several things relative to the Minor Poems that require statement and elucidation; and I deem it well to give such here, as I have done in the new edn. of the complete Poems.

I. The Ten Sonnets to Philomel and Hymn to Music.
II. The Entertainment to Elizabeth at Harefield by the Countess of Derby.
III. The Poem to King James Ist.
IV. Dacus not Samuel Daniel.
V. Marston and "Orchestra," &c.
VI. Hymnes to Astræa.
VII. Gulling Sonnets, etc.

I. The Ten Sonnets to Philomel and Hymn to Music. In Vol. Ist I admitted "Canzonet: a Hymne in praise of Musick" among his Poems (pp. 297-9) because in the "Rhapsody" it bore his initials I. D. precisely as his other accepted pieces therein did. But I excluded the 'Ten Sonnets to Philomel' from their having the signature originally of "Melophilus," and I. D. only subsequently. I too hastily agreed with Sir Egerton Brydges (in his edition of the "Rhapsody" 2 Vols.,

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1826) in assigning them to Dean Donne. I could not discern Donne's manner in the 'Canzonet,' and so had no difficulty in rejecting Brydges' alleged 'internal evidence' in respect of it, initialled as it was. Neither did I find the 'internal evidence' in the 'Ten Sonnets' for its Donne authorship, but, in addition to the early signature "Melophilus," there was a note of "Manuscripts to get" by Davison, from Donne, that had seemed to warrant the 'Ten Sonnets" being regarded as his contribution, and the later I. D. as representing J[ohn] D[onne], and not Sir John Davies. My friend Dr. Brinsley Nicholson has satisfied me that Davison's List of MSS. to be received could not refer to his "Rhapsody," but to some other intended work or private collection; and so the one point in favour of Donne falls to the ground. The evidence as communicated to myself, and since, in a lengthy communication to the *Athenæum* (January 22d, 1876), may be thus summarized. (1) There is nothing in Davison's notings which even hints that he was thinking of the "Rhapsody." (2) The greater number of the MSS. mentioned never appeared even by a specimen in the "Rhapsody." (3) The second entry is of

"Sports, Masks, and Entertainments to ye { late Queen, the King," &c.

Therefore it was written in or after 1603. But the first edition of the "Rhapsody," containing the "Hymn to Music" signed I. D., and the "Ten Sonnets" signed "Melophilus," and in the subsequent editions I. D., was published in 1602. (4) There is not in the subsequent editions a single piece by any of these memorandum-noted authors that is not in the first—so shewing further that the memorandum had no reference to the "Rhapsody." Of Donne and Constable there are in the editions 1608, 1611, 1621, only those given in 1602, and in no edition at all is there a single specimen of Ben Jonson, Hodgson, Harington, Joseph Hall, &c., &c. There remains thus only (5) The I. D. evidence, e g.:

	1602.	1608.	1611.	1621.
Hymn	I. D.	I. D.	I. D.	Unsigned.
Sonnets	Melophilus.	I. D.	I. D.	I. D.
12 Wonders	Not in 1st edn.	John Dauis	Sir John Dauis	Sir John Davies
Lottery		I. D.	I. D.	Sir I. D.
Contention		John Dauis	Sir John Dauis.	Unsigned.

Absence here this my protestation. Unsigned in all four editions.

That two are unsigned in the 1621 edition is probably due to omission made during the thorough re-distribution of the pieces into books of Odes, &c., &c. Further (6) the "Hymn to Music" and the "Ten Sonnets" follow consecutively, and are the very first among the "pieces by sundry others." So in editions of 1608 and 1611 the "Twelve Wonders," "Lottery," and "Contention" are the

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first of the new pieces, in fact, open the book and follow one another successively in a group of three —John Dauis—I. D.—John Davies. (7) We gather from inspection of the "Table" that (*a*) the "Lottery," I. D., is John Davies; (*b*) that Davison put I. D. after the "Lottery," knowing that he had already appropriated I. D. to the author of the "Hymne;" and what is more, he chose to put I. D. to the "Lottery" just when he associated the "Ten Sonnets" with I. D. and John Davies' poems by altering Melophilus to I. D.;" (*c*) at the same time he left "Absence hear," &c., unsigned; (*d*) what has been said under (5) and (6) suggests that Davies was a personal friend of Davison's, and this is strengthened by there being no MS. of Davies noted as "to get." If so, Davison was still less likely to use ambiguous initials for anything by Davies. Once more (8) When we add to this that the "Hymne" must go with the "Ten Sonnets" and that it is clearly by the author of "Orchestra"; and that neither the "Hymne" nor the "Ten Sonnets" appear in any collection of Donne's poems printed or in MS. the external evidence in favour of Sir John Davies as author of the work is as strong as it well can be. Internally the student of "Orchestra" and the "Hymnes to Astræa" will readily see the "fine

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Roman hand" that wrote them in the "Hymne to Music" and related "Ten Sonnets to Philomel" There is none of the style, or conceits, or wording, or rhythm of Donne. I add finally (9) If the "Ten Sonnets to Philomel" were based on real love experiences, we can understand how at first at any rate the disguise of "Melophilus" might be preferred to I. D. It does not seem probable that they were addressed to her who became his wife. In accord with all this both the "Hymne to Music" and the "Ten Sonnets to Philomel" are now included among Sir John Davies's Poems.

II. *The Entertainment to Elizabeth at Harefield by the Countess of Derby.* In the foot-notes to the "Lottery," (Chatto & Windus edn.) several variations from Manningham's "Diary" are accepted as decided improvements, especially those in VII., XIX., and XXI., which were probably taken from a revised or autograph MS. That Manningham had full information on the "Lottery" is proved by the list he gives of the persons to whom the 'lots' went, viz., I., To hir M^tie^. III. La[dy] Scroope. XXVII. La[dy] Scudamore. VI. Lady Francis. VII. Earle of Darby's countes. VIII. Lady Southwell. II. Countess of Darby dowager: [the Lord Keeper's wife]. XII. Countess of Kildare. XIII. La[dy] Effingham. XIX. La[dy] Newton. XXI.

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Not named. XXII. La[dy] Warwike. XXV. La[dy] Dorothy. XXXIII. La[dy] Susan . . . . . XXXII. La[dy] Kidderminster. XXXI. Blank. But there remains an interesting question to be settled, viz., the date of this "Lottery." Nichols, apparently on the sole authority of the "Rhapsody," gives it to a visit to the Lord Keeper's town-house [Yorke House] in 1601; and assigns it to York House because Sir Thomas Egerton did not buy Harefield till 1602, and clearly by the speeches in the "Entertainment" the Queen had never been there before August, 1602. But the "Rhapsody" date is a slip of Davison's pen or of his printer for 1602, and the "Lottery" took place at Harefield as part of the "Entertainment." Notices in the "Lottery" itself guide us to this conclusion, e.g., it was about August, for in Lot 22 we read:—

> "'Tis Summer yet, ...
> But 'twill be winter one day, doubt you not."

and the visit to Harefield was in August. Then there is to be noted that the masquer is "A Mariner . . . . . supposed to come from the Carrick." Let 'the' be marked '*the* Carrick.' The allusion is historical. The Queen sent out Sir Richard Levison (or Lawson) and Sir William Morrison on the 19th and 26th March, 1602 to

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intercept the plate fleet and do any other damage along the Spanish coast. They did not get the Fleet and were wholly unsuccessful till 1st June, when they came upon an immense 'carrick' from the East Indies of 1,600 tons flanked on one side by a castle and on the other by eleven Spanish and Portugese galleys. On the 2nd the admirals with five men of war and two merchantmen Easterlings, beat the gallies and silenced the castle, and on the 3rd the carrick surrendered with a cargo estimated by the Portugese at a million of ducats. Our killed in this brilliant exploit was six seamen (see Camden's Annals and Monson's Naval Tracts). This proves that the Verses were *vers d' occasion.* We have '*the* carrick' and Cynthia who sent forth Fortune to the sea, and many a "jewel and a gem" brought, and Fortune so commanded

> ———"as makes me now to sing
> There is no fishing to the sea, no service to the King."

Further, the Queen writing to Lord Mountjoy (Deputy to Ireland) 15th July 1602 says "..... first to assure you that we have sent a fleet to the coast of Spain, notwithstanding our former fleet with the Carrick," which shows two things (1) That Lawson and Monson had returned prior to the 15th of July (2) that the Queen had sent not

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another fleet at once: and thus Davies' verses were the more appropriate as being not only a remembrance of good luck but an anticipation of continued good fortune.

These proofs of date which require no confirmation are confirmed by this, that Manningham after the "Lottery," and on the same leaf, gives a "dialogue betweene the bayly and dairy mayd" before "her Mtis coming to the house," quoting a sentence as found in the "Entertainment." This leads me to state why I have given the entire "Entertainment" to Sir John Davies. It certainly is contrary to natural expectation that the "Lottery" verses are not introduced into the "Entertainment," and but for other considerations the inference might have been that only the "Lottery" was by Davies, and the rest by some other. But there is this explanation of the absence of the "Lottery" verses, that evidently they formed part of the amusement of one of the rainy days—for it was a wet St. Swithin—when the speeches and other things of the "Entertainment" took place without doors, and distinct from the "Lottery." Then on reading the "Entertainment" itself, there are manifold marks that the whole came from one pen, and that pen Davies's; for throughout there is likeness of style and

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thought to his avowed writings. Take these few examples: (1) "If thou knewest the cause, thou wouldst not wonder; for I stay to entertaine the Wonder of this time," &c. ("Entertainment," &c., Vol. II., pp. 249-50.) Cf. this with "Orchestra" st. 130, "wonder of posteritie" (i.e., not of her own time, namely): (2) "The Guest that we are to entertaine doth fill all places with her divine vertues, as the Sunne fills the World with the light of his beames." (*Ibid*, p. 250). Cf. Hymnes to Astræa, XIV., stanza 2:—

> "Behold her in her vertues' beames,
> Extending sun-like to all realmes."

Again, XV., st. 1:—

> "Eye of that mind most quicke and cleere,—
> Like Heaven's eye, which from his spheare
> Into all things prieth;
> Sees through all things euery where,
> And all their natures trieth."

(3) "Though her selfe shall eclipse her soe much as to suffer her brightness to be shadowed in this obscure and narrow *Place*, yet the sunne beames that follow her, the traine I meane that attends vpon her, must, by the necessitie of this *Place*, be deuided from her." (*Ibid*, p, 251). Cf. XIX., st. 1:—

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"Eclipsed she is, and her bright rayes,
Lie under vailes, yet many wayes
Is her faire forme reuealed."

'Beams' and 'sunbeams' are favourite words with Davies: so too 'mirror.' (4) "Time weare very vngratefull, if it should not euer stand still, to serue and preserue, cherish and delight her, that in the glory of her time, and makes the Time happy wherein she liueth." (*Ibid* p. 251). Cf. II. st. 3, ll. 1-3.

"Right glad am I that now I live:
Even in these days whereto you give
Great happiness and glory."

(5) "What if she make thee a contynewell holy-day, she makes me [Place] a perpetuall sanctuary (*Ibid* p. 251). Cf. IV., st. 1:—

"Each day of time, sweet moneth of May.
Love makes a solemne holy-day."

(6) "Doth not the presence of a Prince make a Cottage a Court, and the presence of the Gods make euery place Heaven?" *Ibid* pp. 251-2). Cf. Dedication of "Nosce Teipsum":—

"Stay long (sweet spirit) ere thou to Heauen depart,
Which makest each place a heauen wherein thou art."

In the Verse there are abundant parallels. I must content myself with references. With the 1st stanza

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"Beauties rose, and vertues brooke, &c."

compare Hymnes to Astræa VII., st. 3: XVII., st. 2-3 and the "Contention" (*ad fin.*) and XIII. st. 2: XV. st. 2. Also IV. last 2 lines: VII. st. 3. ll. 1-3: X. last 4 lines. Similar results are found on a comparison of the "Entertainment" with the "Dialogue between a Gentleman Usher and a Poet" (Vol. Ist., pp. 15-21.)

I have accordingly given the whole "Entertainment" as belonging to Sir John Davies. It is to be regretted that the Satyrs Verses are unaccompanied by the rest of the Masque to which apparently they belong. Harefield has the further light of glory on it of having been the scene of Milton's "Arcades" and of the famous elm-aisle celebrated by him in imperishable verse. The Countess of Derby, afterwards the Lord Keeper's third wife, was the early friend of Spenser and of Milton, and of all her eminent literary contemporaries.*

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* As for much more I am indebted to Dr. Brinsley Nicholson (as before) for the most of the details of the above statement. He has likewise favoured me with these additional illustrations of a refrain in the introduction to the "Loitery." In the Queen's Entertainment at Cawdray (Lord Montacute's), in 1591, an angler says, "Madame, it

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III. "*Yet other Twelve Wonders of the World.*" In foot-note (Vol. II., p. 67: Chatto and Windus

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is an odde saying, There is no fishing to the sea nor service to the King: but it holdes when the sea is calme and the King vertuous" (Nichols' Progresses). Greene also uses it in his James IV., when the schemer who has gained by flattering the King, says (I. 2)

"Now may I say as many often sing,
No fishing to the sea nor service to the King."

See Note to the "Lottery," Vol. II., p. 88. It was surely an error of judgment of the late Mr. John Bruce, in reproducing Manningham's "Diary," to leave out the "Lottery," and related entries, on the weak plea that the former had been printed in Shakespeare and Percy Society publications. It may be here mentioned that Manningham, in giving some of the "Lottery" verses, writes on a leaf which is followed by one of the date of 1601; but as Mr. Collier remarks, either the leaves of the Diary got misplaced, or else he was in the habit of using up at after times leaves that he had left blank. Further: Chamberlain, in a letter of October 2, 1602, mentions the visit to the Lord Keeper's at Harefield as part of the late "Progress." The original M.S. of the Entertainment belonged to Sir Roger Newdegate, but is now missing. Finally: I overlooked to annotate *in loco* in the "Entertainment" itself, that as the Dairy house was to the left while the "House" (of Harefield) was to the right, the Dairymaid ridicules the idea of the Bailiff taking such a party to what he calls a Pigeon house for its size, and which was moreover at that moment in the carpenters' hands. In effect the Queen had to be separated from at least the greater part of her suite.

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edn.) I promise an autograph MS. of this characteristic set of verses. It finds more fitting place here than in the Preface. The MS. is preserved at Downing College, Cambridge, and having been described on p. 325 of the "Third Report of the Historical MSS. Commissioners," Mr. Beedham, (as before) was kind enough to make a *literatim* transcript for me (with the permission of the College authorities). The MS. is headed "Verses giuen to the L. Treasurer vpon Newyeares day vpon a dozen of Trencher, by Mr. Davis." In the margin against "The Lawyer," in the same handwriting as the Versess is this: "This is misplaced, it should have been physis^{n}," and similarly against "The Country Gentleman," also in the same handwriting, is: "This is misplaced, in the original it is before the m^{r}chant." There is nothing to give any clue as to the precise New Year's day upon which the Verses were furnished to the Lord Treasurer; but unless I very much mistake, they were the "cob-web" of his "inuention" enclosed in that letter which Mr. J. Payne Collier supposed to have gone with a gift-copy of "Nosce Teipsum." The letter speaks for itself:—

"Mr. Hicks. I have sent you heer inclosed that cobweb of my invention which I promised before Christmas: I pray you present it, commend it, and grace it, as well for

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your owne sake as mine: bycause by your nomination I was first put to this taske, for which I acknowledge my self beholding to you in good earnest, though the imployment be light and trifling, because I am glad of any occasion of being made knowne to that noble gentl. whom I honore and admire exceedingly. If ought be to be added, or alter'd, lett me heare from you. I shall willingly attend to doo it, the more speedily if it be before the terme. So in haste I commend my best service to you. Chancery Lane, 20 Jan. 1600. Yours to do you service very willingly, Jo. Dauys." (Bibl. Account, V. I., pp. 193-4; no specification of source beyond S. P. O.)

The handwriting of the copy in Downing College belongs to the close of the 16th or to the earliest years of the 17th century. The second marginal note above would seem to show that the transcript was made from the original, then perhaps being circulated from hand to hand. Specimens of variations may interest. In "The Courtier," l. 1, for 'liv'd' the MS. reads 'serued': l. 4, "from them that fall" for "such as fall": l. 5, "my" for "a rich array": in the "Divine," l. 1, "one cure doth me contente" for "and I from God am sent": l. 3, "true kinde" for "kind true": l. 5, "Nor followe princes' Courts" for "Much wealth I will not seeke": "The Souldier," l. 6, "brag" for "boast": "The Physitian," l. 1, "prolonge" for "vphold" and "life" for "state": l. 2, "I" for "me" (*bis*): l. 6, "time & youth" for

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"youth and time": "The Lawyer," l. 1, "My practice is the law" for "the Law my calling is": ll. 5-6,

"Some say I have good gifts, and love where I doe take
Yet never tooke I fee, but I advised or spake,"

for

"Nor counsell did bewray, nor of both parties take,
Nor euer tooke I fee for which I neuer spake."

"The Merchant," l. 2, "vnknowne worlds . . Kingdomes doth" for "unknowne coasts . . . . . countries to": "The Married Man," l. 4, "choise" for "chance": "The Wife," l. 1, "my" for "our": l. 2, "Thither am I . . . . . where firste" for "I thither am . . . . . from whence": l. 3,

"I goe not maskd abroad to visit, when I do
My secrets I bewray to none but one or two,"

for

"I doe not visite oft, nor many, when I doe,
I tell my mind to few, and that in counsell to."

"The Widowe" l. 1, "dyinge" *is* inserted here before "husband": l. 3, "love" for "haue": l. 6, "Nor richer then I am, nor younger would I seeme" for "Nor younger then I am, nor richer will I seeme": "The Maide," l. 4, "of" for "on": l. 5, "but" for "yet." These embrace all save orthographical and other slight variants. As derived from an authentic *autograph* MS. the

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Downing College copy is interesting and its variants serve further to illustrate the letter to Hicks, wherein Davies expresses his willingness to make any changes—which alone might have led Mr. Collier to see that he could not possibly refer to "Nosce Teipsum," which was then published.

IV. *Dacus not Samuel Daniel.* Turning to Epigrams 30 and 45 (pp. 334, 345) the reader will find in Dyce's note to the latter that he identified 'Dacus' with Daniel, and the passage whereon he based the identification. I passed his note though not at all satisfied with the parallel of 'dumb eloquence" to the Epigram's "silent eloquence.' Epigram 30 points rather to a rhymster of the John Taylor Water-Poet type, and if one had patience to make the search "silent eloquence" should doubtless be found in one or other of his many books—clumsily appropriated from Sir Philip Sidney. Then the "dumb eloquence" of the Complaint of Rosamond which Dyce quotes, was to the King *not* "to his Mistress"—even if it were what the Epigram hints "silent eloquence." *En passant* the phrases and variants on it was one of the aped phrases of the gallants and poetasters of the day. Jonson who disliked Daniel, ridicules the stanza in a way that informs us it was affected by them. Griffin in his *Fidessa* also has it in his

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"dumb message of my hidden grief." Further: Davies of Hereford in his "Scourge of Folly" who must have known his namesake's use of Dacus calls him Dacus the pot-poet and speaks as much against his character as our Davies does against his rhymes—all of which was curiously inapplicable to Samuel Daniel. At the time Davies of Hereford wrote, Daniel was a gentleman of the Queen's bed-chamber. Lastly—and conclusively—Sir John Davies praises three English poets in his "Orchestra" (Elizabethan edn.) of whom one is Daniel:—

> "O that I could old Gefferie's Muse awake
> Or borrow Colin's fayre heroike stile,
> Or smooth my rimes with Delia's servant's file."

Vol. I p. 229). It is a pleasure to be able to vindicate Sir John Davies from abuse of so genuine a Poet-contemporary as Daniel, and Daniel from so weighty an adverse judgment, had it really been Davies's. To the same good friend who has so helped me elsewhere—Dr Brinsley Nicholson—I owe thanks for these too-long-delayed corrections.

V. *Marston and 'Orchestra.'* But if Harrington and Davies of Hereford praised, there were others who had their jeers at Orchestra, e.g. John Marston in his 11th Satire of his Scourge of Villanie, in ridiculing the gallant who thinks of nothing but dancing, as he afterwards does Luscus, who talks

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of nothing but Plays, and vents only play-scraps, says (1599)

> "Who ever heard spruce skipping Cuio
> Ere prate of ought but of the whirle on toe.
>
> . . . . . .
>
> Praise but Orchestra, and the skipping art,
> You shall command him, faith you have his hart
> Even capering in your fist."

Then there follows *(meo judicio)* a reminiscence or two of the poem itself, and a laugh at the "worthy poet." Thus in 'Orchestra,' st. 59, we have

> "According to the musicke of the spheres."

and st. 60,

> "And imitate the starres cælestiall."

and st. 71, speaking of Castor and Pollux:

> "Where both are carried with an equall pace
> Together iumping in their turning race,"

and where, though 'iumping' is of course used in the sense not of our 'jumping' (leaping) but in that of equal or agreeing, as in "jump where may find Cassio," or as where the folio (I. 1) has "just at this same hour" the 4° Hamlet has "jump at this dead hour"; yet it has for the context an unlucky sound and association. Hence Marston wickedly and waggishly continues:

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"A hall, a hall
Roome for the spheres, the orbs celestiall
Will daunce Kemps jigge; they'le revel with neate jumps;
A worthy poet hath put on their pumps.
O wits quick traverse but *sance ceo's* slowe,
Good faith 'tis hard for nimble Curio.
Ye gracious orbes, keepe the old measuring
All's spoilde if once yee fall to capering."

VI. *Hymnes to Astrœa.* I adhere to Sir John Davies' own form of Astraea in the collective edition of 1621. Doubtless he and the Printer meant it for 'æ' not 'œ' inasmuch as besides Astraea's mythological reign in the golden age over a people that became too wicked for her she became the constellation Virgo, as celebrated, among others, by Barnfield in his *Cynthia.*[1] The whole of Hy. I. shows this, where the flattery was specially apt to the subject on account of making Astraea the daughter of Aurora: and so Hy. V. of the Lark: and Hy. XXI.

VIII. *Gullinge Sonnets.* Since Vol. Ist. was issued the 'Gulling Sonnets' have been discovered. To complete the Poems they here follow as given in the new edition, as before[2]:—

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[1] See my edition of his Complete Poems for the Roxburghe Club.

[2] These 'Gullinge Sonnets' were first printed in my

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[*Dedicatory Sonnet.*]

TO HIS GOOD FREINDE SR ANTH. COOKE.

Here my Camelion Muse her selfe doth chaunge
to diuers shapes of gross absurdities,
and like an Antick[1] mocks wth fashion straunge
the fond[2] admirers of lewde gulleries.
Your iudgement sees wth pitty, and wth scorne
The bastard Sonnetts of these Rymers bace,

---

[1] = motley-dressed jester or fool. [2] = foolish.

re-production of the Dr. Farmer MS. for the Chetham Society (2 vols. 4to., 1873) in Part I. pp. 76-81, There seems no question that these Sonnets belong to Sir John Davies. Besides the "J. D." and "Mr. Dauyes" of the MS., his most marked turns of thought and epithet are readily discernible in them.

The Sir Anthony Cooke to whom these Sonnets are dedicated descended from the Sir Anthony who was Preceptor to King Edward VI., and for Letters from whom whoso cares may consult the "Reformation" correspondence of the Parker Society. His daughter Mildred was second wife of Lord Burleigh, and his daughter Anne was mother of *the* Bacon. His son and heir, Richard Cooke, died in 1579, and was succeeded by his son Anthony (this Sir Anthony), who was knighted in 1596 by the Earl of Essex at the sacking of Cadiz. He was buried at Romford, Essex, on 28th December, 1604.

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Wch in this whiskinge age are daily borne
To their own shames, and Poetrie's disgrace.
Yet some praise those and some perhappes will praise
euen these of myne: and therefore thes I send
to you that pass in Courte yor glorious dayes;
Yt if some rich rash gull these Rimes commend
Thus you may sett this formall witt to schoole,
Vse yor owne grace, and begg him for a foole.

J. D.

GULLINGE SONNETS.

1.

The Louer Vnder burthen of his Mris love
Wch lyke to Ætna did his harte oppresse:
did giue such piteous grones yt he did moue
the heau'nes at length to pitty his distresse
but for the fates in theire highe Courte aboue
forbad to make the greuous burthen lesse.
the gracous powers did all conspire to proue
Yf miracle this mischiefe mighte redresse;
therefore regardinge yt ye loade was such
as noe man mighte wth one man's mighte sustayne
and yt mylde patience[3] imported much
to him that shold indure an endles payne:
By there decree he soon transformèd was
into a patiente burden-bearinge Asse.

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2

As when ye brighte Cerulian firmament
hathe not his glory wth black cloudes defas'te,
Soe were my thoughts voyde of all discontent;
and wth noe myste of passions ouercast
they all were pure and cleare, till at the last
an ydle careles thoughte forthe wandringe wente
and of y^t poysonous beauty tooke a taste
W^ch doe the hearts of louers so torment:
then as it chauncethe in a flock of sheepe
when some contagious yll breedes first in one
daylie it spreedes & secretly doth creepe
till all the silly troupe be ouergone.
So by close neighbourhood wth in my brest
one scuruy thoughte infecteth all the rest.

3

What Eagle can behould her sunbrighte eye,
her sunbrighte eye y^t lights the world wth loue,
the world of Loue wherein I liue and dye,
I liue and dye and diuers chaunges proue,
I chaunges proue, yet still the same am I,
the same am I and neuer will remoue,
neuer remoue vntill my soule dothe flye,
my soule dothe fly, and I surcease to moue,

---

[3] A trisyllable.

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I cease to moue wch now am mou'd by you,
am mou'd by you y^{t} moue all mortall hartes,
all mortall hartes whose eyes yor eyes doth veiwe,
Yo^{r} eyes doth viewe whence Cupid shoots his darts,
whence Cupid shootes his dartes and woundeth those
that honor you and neuer weare[4] his foes

4

The hardnes of her harte and truth of myne
when the all seeinge eyes of heauen did see
they streight concluded y^{t} by powre devine
to other formes our hartes should turnèd be.
then hers as hard as flynte, a Flynte became
and myne as true as steele, to steele was tureed,
and then betwene o^{r} hartes sprange forthe the flame
of kindest loue, wch vnextinguish'd burned;
And longe the sacred lampe of mutuall loue
incessantlie did burne in glory brighte;
Vntill my folly did her fury moue
to recompence my service wth despighte,
and to put out wth snuffers of her pride
the lampe of loue wch els had neuer dyed.

5

Myne Eye, mine eare, my will, my witt, my harte
did see, did heare, did like, discerne, did loue:
her face, her speche, her fashion, iudgem^{t}, arte,
wch did charme, please, delighte, confounde and moue.

[4] = were.

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Then fancie, humor, loue, conceipte, and thoughte
did so drawe, force, intyse, perswade, deuise,
that she waswonne, mou'd, caryed, compast, wrought
to thinck me kinde, true, comelie, valyant, wise;
that heauen, earth, hell, my folly and her pride
did worke, contriue, labor, conspire and sweare
to make me scorn'd, vile, cast of, bace, defyed
Wth her my loue, my lighte, my life, my deare:
So that my harte, my will, eare and eye
doth greiue, lament, sorrowe, dispaire and dye.

6

The sacred Muse that first made loue deuine
hath madd him naked and wthout attyre,
but I will clothe him wth this penn of myne
that all the world his fashion shall admyre,
his hatt of hope, his bande of beautye fine,
his cloake of crafte, his doblett of desyre,
greif for a girdell, shall aboute him twyne,
his pointes of pride, his Ilet holes of yre,
his hose of hate, his Cod peece of conceite,
his stockings of sterne strife, his shirt of shame,
his garters of vaine glorie gaye and slyte;
his pantofels of passions I will frame,
pumpes[5] of presumption shall adorne his feete
and Socks of sullennes exceeding sweete.

[5] = slipper-shoes.

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7

Into the midle Temple of my harte
the wanton Cupid did himselfe admitt
and gaue for pledge yor Eagle-sighted witt
Y^{t} he would play me noe rude vncivill parte:
Longe tyme he cloak'te his nature wth his arte
and sadd and graue and sober he did sitt,
but at the last he gan to reuell it,
to break good rules, and orders to peruerte:
Then loue and his younge pledge were both conuented
before sadd^{e} Reason, that old Bencher graue,
who this sadd sentence vnto him presented
by dilligence, y^{t} slye and secret knaue
That loue and witt, for euer shold departe
out of the midle Temple of my harte.

8

My case is this, I loue Zepheria brighte,
Of her I hold my harte by fealtye:
W^{ch} I discharge to her perpetuallye,
Yet she thereof will neuer me accquite.
for now supposinge I wth hold her righte
she hath distreinde my harte to satisfie
the duty wch I neuer did denye,

=serious, and so 'sadly'=seriously, e. g. Skelton:

"I have not offended, I trust,
If it be *sadly* discust."

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and far away impounds it wth despite ;
I labor therefore iustlie to repleaue[7]
my harte wch she vniustly doth impounde
but quick conceite wch nowe is loue's highe Sheife
retornes it as esloynde, not to be founde :
Then wch the lawe affords I onely craue
her harte for myne in wit her name to haue.

9

To Loue my lord I doe knightes seruice owe
and therefore now he hath my witt in warde,
but while it is in his tuition soe
me thincks he doth intreate it passinge hard ;
for thoughe he hath it marryed longe agoe
to Vanytie, a wench of noe regarde,
and nowe to full, and perfecte age doth growe,
Yet nowe of freedome it is most debarde.
But why should loue after minoritye
when I am past the one and twentith yeare
perclude my witt of his sweet libertye,
and make it still ye yoake of wardshippe beare.
I feare he hath an other Title gott
and holds my witte now for an Ideott.

Mr Dauyes.

---

7 = recover (a legal term).

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Since the preceding "Gullinge Sonnets" were reprinted (as indeed the proof is about to be returned) a friend calls my attention to the fact that Warton in the last chapter of his History of English Poetry, quotes thus from Sir J. Harington's *Metamorphoris of Ajax* (1596): "But as my good friend Mr. Dauies saide of his Epigrams that they were like doublets in Birchen-lane, for every one whom they will serue" &c. This refers to an Epigram (also touched on by an unknown author in the Dr. Farmer's MS. p. 102) which is not found among his Epigrams (so-called) but which is thus given in "Wit's Recreations" (reprint p. 220):—

> "Thus have I waded through a worthlesse task,
> Whereto I trust there's no exception ta'n,
> For meant to none, I answer such as ask,
> 'Tis like apparell made in Birchen-lane;
> If any please to suit themselves and wear it,
> The blame's not mine, but their's that needs will
> bear it."

And so I leave the reader to raise the lid of the casket of gems now put into his hands in these Poems. It demands robustness of brain and sensibilities of spirit to appreciate adequately our Poet; but if, in all humility of receptiveness and open-eyedness, these volumes be read, no one

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competent can go away unimpressed. Whether as Thinker or Singer he must be placed among the rare few who have enriched our highest Literature.

Turning now to 2. the PROSE of Sir John Davies very little is required in the way of critical examination even if both in Memorial-Introduction and the text of the Prose, our estimated space had not long since been far exceeded. Summarily, his "True History" remains as authoritative to-day as when it was originally published. Painstaking in its research, sagacious in its conclusions, luminous in its narrative, learned in its authorities, patriotic in its spirit and generous in its sympathies there are few such historical books. The Author's profound regard for the King did not dim his vision or impart an "uncertain sound" to his judgments. Beneath the most loyal phrases there is fearless assertions of responsibility with privilege. His State-Papers and public letters partake of the same high qualities; and we marvel how so much activity in movement was combined with patient and judicial inquiry. His Speeches and great Discourse on 'Common Law' are eloquent and learned. His "Jus Imponendi" has been criticised already. His "New Post" and the "Antiquarian Essays" shew him in his easy-chair. Because of the first ascription of the "New Post" under the title

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of Reason's Academie (1605-1609) to Robert Mason, I had meant to state fully my grounds for giving it to Davies, especially as Mr. Henry Bradshaw, M.A., of the University Library Cambridge, was good enough to favour me with many details on the different editions. I can only find room to say I do not see how (1) The "by Sir I. D. Knight" during Davies' own life-time, and (2) the express reclamation of it for Sir John Davies by Sir James Ware, can be set aside, and (3) that "set forth by Robert Mason, of Lincolnes Inne, Gent," can scarcely be called a claim to authorship, and (4) that "New Post" is very like the notes and jottings and thoughts while "Nosce Teipsum" was in preparation. Further light is wanted before "New Post" can be justifiably withdrawn from Sir John Davies.

Without more of introduction I leave the Prose as well as Verse of our Worthy to receive worthy welcome and study from such as rejoice in fellowship with a master-mind.

ALEXANDER B. GROSART.

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A

DISCOVERIE OF THE TRVE CAVſes why IRELAND was neuer entirely *Subdued, nor brought vnder Obedience of* the Crowne of ENGLAND, vntill the *Beginning of his* Maieſties *happie* Raigne.

Printed for Iohn Iaggard, dwelling within Temple Bar, at the Signe of the Hand and Star.

1612.

[4to.]

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A DISCOVERIE OF THE STATE OF IRELAND: with the true Causes why that Kingdom was never entirely subdued,

nor brought under obedience of the *Crowne of* ENGLAND, untill the Beginning of his *Majesties* most happie Raigne.

Printed for Iohn Iaggard, dwelling within Temple Bar, at the Signe of the Hand and Star.
1613.

[4to.]

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I.

A Discoverie of the Trve Cavses why Ireland was never entirely svbdued, &c.

(1612.)

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NOTE.

Opposite, is the original title-page of the 'Discoverie', our text being a faithful reproduction of this edition, even to its somewhat arbitrary capitals, italics, abbreviations, and varying orthography and punctuation. His Grace the DUKE OF BEDFORD, in the most generous manner, entrusted me with his (it is believed) unique copy of this the first edition, preserved at Woburn. Reprints hitherto have been from later and encreasingly faulty texts. On all, earlier and modern, see our Preface and Memorial-Introduction and relative Notes and Illustrations. The dedication, which fills a page of itself, follows the title-page, thus:

Dedicated

TO

THE KING,

By his MAIESTIES

Atturney Generall,

of IRELAND.

PRINCIPIS EST VIRTVS MAXIMA,

NÔSSE SVOS.

On the *verso* of the original title-page, will be found that of the second edition, viz., of 1613, shewing noticeable variations. G.

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A Discouery of the true *causes, why* IRELAND *was neuer entirely subdued, and brought vnder Obedience of the Crowne of* ENGLAND, *vntill the beginning of his* MAIESTIES *happy raigne.*

DVRING the time of my *Seruice* in IRELAND (which began in the first yeare of his Maiesties raigne) I haue visited all the Prouinces of that *Kingdome,* in sundry iournies and circuits. Wherein I haue obserued the good *Temperature* of the *Ayre;* the *Fruitfullnesse* of the *Soyle;* the pleasant and commodious *seats* for *habitation;* the safe and large *Ports* and *Hauens* lying open for Trafficke, into all the West parts of the world; the long *Inlets* of many Nauigable Riuers, and so many great *Lakes,* and fresh Ponds within the Land; (as the like are not to be seene in any part of *Europe,*) the rich *Fishings,* and Wild-*Fowle* of all kinds; and lastly, the *Bodies* and *Minds* of the people, endued with extraordinarie abilities of Nature.

THE obseruation whereof, hath bred in me some curiositie, to consider, what were the true causes why *this Kingdome,* whereof our Kings of *England* haue borne the Title of *Soueraign Lords* for the space of foure hundred and odde yeares (a period of time wherein diuers great Monarchies haue risen from Barbarisme to Ciuillitie, and fallen againe to

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ruine) was not in all that space of time, thoroughly subdued and reduced to Obedience of the Crowne of *England*, although there hath been almost a continuall warre between the *English* and the *Irish*; and why the maners of the meere *Irish* are so little altred since the dayes of King *Henry* the second, as appeareth by the description made by *Giraldus Cambrensis* (who liued and wrote in that time), albeit, there haue bin since that time, so many *English Colonies* planted in *Ireland*, as that, if the people were numbered at this day by the Poll, such as are descended of English race, would bee found more in number, then the ancient Natiues.

And truly, vpon consideration of the conduct and passage of affaires in former times, I find, that the *State* of *England* ought to be cleared of an imputatiõ, which a vulgar error hath cast vpon it, in one point, namely, *That Ireland long since might haue been subdued and reduced to* Ciuility, *if some Statesmen, in policy, had not thoght it more fit to continue that Realme in Barbarisme.* Doubtlesse, this vulgar Opinion (or report) hath no true ground, but did first arise either out of Ignorance, or out of Malice. For it will appeare by that which shal hereafter be laide downe in this Discourse, that euer since *Our Nation* had any footing in this Land, the State of *England* did earnestly desire, and did accordingly endeuour from time to time, to perfect the Conquest of this kingdom, but that in euery age there were found such impediments & defects in both Realmes, as caused almost an impossibility, that thinges should haue bin otherwise then they were.

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Two maine impediments of the conquest.

THE *Defects* which hindred the *Perfection* of the Conquest of *Ireland*, were of two kinds, and consisted; first, *in the faint prosecution of the warre*, and next, *in the loosenesse of the ciuill Government*. For, the Husbandman must first breake the Land, before it bee made capeable of good seede: and when it is thoroughly broken and manured, if he do not forthwith cast good seed into it, it will grow wilde againe, and beare nothing but Weeds. So a barbarous Country must be first broken by a warre, before it will be capeable of good Gouernment; and when it is fully subdued and conquered, if it bee not well planted and gouerned after the Conquest, it will eft-soones return to the former Barbarisme.

The faint prosecution of the warre.

TOUCHING the carriage of the *Martiall affaires*, from the seuenteenth yeare of King *Henry* the second, when the first ouerture was made for the Conquest of *Ireland*, (I meane the first after the Norman Conquest of *England*) vntill the nine and thirtith yeare of Queene ELIZABETH, when that Royall army was sent ouer to suppresse *Tirones* Rebellion, which made in the end an vniuersall and absolute conquest of all the *Irishrie:* it is most certaine, that the English forces sent *hither*, or raised heere from time to time, were euer too weake to subdue and master so many warlike Nations (or Septs) of the Irish, as did possesse this Island; and besides their weakenesse, they were *Ill paide*, and *worse Gouerned*. And if at any time there came ouer an army of competent strength and power, it did rather terrifie then breake and subdue this people, being euer *broken* and *dissolued* by some one

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accident or other, before the perfection of the Conquest.

What is a perfect Conquest.

For, that I call a *Perfect Conquest* of a Country, which doth reduce all the people thereof to the Condition of *Subiects:* and those I cal *Subiects,* which are gouerned by the ordinary Lawes and Magistrates of the *Soueraigne.* For, though the Prince doth beare the Title of *Soueraign Lord* of an entire country (as our Kings did of all *Ireland*) yet if there bee two third parts of that Countrey wherein he cannot punish Treasons, Murders, or Thefts, vnlesse he send an Army to do it; if the Iurisdiction of his ordinary Courts of Iustice doth not extend into those parts to protect the people from wrong & oppression; if hee haue no certaine Reuennew, no Escheats or Forfeytures out of the same, I cannot iustly say, that such a Countrey is wholly conquered.

How the war hath bin prosecuted since the 17 yeare of Henry the second.

First then, that wee may iudge and discerne whether the *English* forces in *Ireland* were at any time of sufficient strength, to make a full and finall Conquest of that Land, let vs see what extraordinary armies haue bin transmitted out of *England* thither, and what ordinarie forces haue beene maintained there, and what seruice they haue performed from time to time, since the seauenteenth yeare of King *Henry* the second.

In the time of *Henry* the second.

In that yeare, *Mac Murugh* Lord of *Leinster,* beeing oppressed by the Lords of *Meth* and *Conaght,* and expelled out of his

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Territorie, mooued King *Henry* the second to inuade *Ireland*, and made an ouerture vnto him for the obtaining of the Soueraigne Lordship thereof. The King refused to vndertake the Warre himselfe, to auoide the charge (as King *Henrie* the seuenth refused to vndertake the discouery of the *Indies* for the same cause) but he gaue license by his Letters Patents, that such of his Subiects might passe ouer into Ireland as wold at their owne charge become aduenturers in that enterprize. [*Giraldus Cambrensis.*]

So as the *first attempt to conquer this Kingdome, was but an aduenture of a few priuate Gentlemen.* *Fitz-Stephen & Fitz-Girald* first brake the yce, with a party of three hundred ninety men. The Earle *Strongbow* followed them with twelue hundered more, whose good successe vpon the Seacoasts of *Leinster* and *Mounster*, drew ouer the King in person the next year after, *cum quingentis Militibus*, as *Giraldus Cambrensis* reporteth, who was present in *Ireland* at that time. Which if they were but fiue hundered souldiers, seemeth too small a traine for so great a Prince. But admit they were fiue hundred knights, yet because in those dayes euery Knight was not a Commaunder of a Regiment or Company, but most of them serued as priuate men (sometimes a hundered Knightes vnder a *Speare*) as appeareth by the Lists of the ancient armies, we cannot coniecture his army to haue beene so great, as might suffice to conquer all Ireland, being diuided into so many Principalities, and hauing so manie

The first attempt but an aduenture of priuate Gentlemen.

With what forces the K. himselfe came ouer.

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Hydraes heads, as it had at that time. [*Archiv. Remem. Regis apud Westm.*]

For albeit, *Tacitus* in the life of *Agricola* doth report, that *Agricola* hauing subdued the greatest part of *Great Britaine*, did signifie to the Senat of *Rome*, that he thought *Ireland* might also be conquered with one Legion, and a few ayds: I make no doubt, but that if he had attempted the conquest thereof with a farre greater army, he would haue found himselfe deceiued in his coniecture. "For, a Barbarous Country is not so easily conquered as a Ciuill, whereof *Cæsar* had experience in his warres against the *Gaules*, *Germaines*, and *Britaines*, who were subdued to the Roman Empire, with farre greater difficulty then the rich kingdoms of *Asia*. And againe, a Countrey possessed with many pettie Lordes and States, is not so soone brought vnder entirely, as an entire Kingdome Gouerned by one Prince or Monarch. And therefore, the late King of *Spaine* could sooner win the Kingdome of *Portugall*, then reduce the States of the *Low Countries*.

What maner of Conquest King *Henry* made of Ireland.

BVT let vs see the successe of King *Henrie* the second. Doubtlesse his expedition was such, as he might haue said with *Cæsar*: *Veni, vidi, vici*. For, vpon his first arriuall, his very *Presence* without drawing his sword, preuailed so much, as al the *Petty-Kings*, or *Great Lords* within *Leinster*, *Conaght*, and *Mounster*, submitted themselues vnto him, promised to pay him tribute, & acknowledged him their chiefe and Soueraigne Lord. Besides, the better to assure this inconstant Sea-Nimph (who was so easily wonne) the Pope would needs giue

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her unto him with a Ring; *Coniugio iungam stabili, propriamque dicabo.* But as the Conquest was but slight and superficiall, so the *Popes Donation* and the *Irish Submissions, were but weake and fickle assurances.* For, as the Pope had no more interest in this kingdome, then *He* which offered to Christ all the kingdomes of the earth; so the Irish pretend, *That by their Law, a Tanist might do no Act that might bind his successor.* But this was the best assurance he could get from so many strong Nations of people, with so weake a power: and yet he was so well pleased with this title of the *Lordship* of *Ireland,* as he placed it in his *Royall Stile,* before the Dutchies of *Normandy & Aquitaine.* And so, being aduertised of some stirs raised by his vnnatural sonnes in *England,* within fiue months after his first arriuall, hee departed out of *Ireland,* without striking one blow, or building one Castle, or planting one Garrison among the Irish, neither left he behinde him one true subiect more then those he found at his comming ouer, which were onely the *English Aduenturers* spoken of before, who had gained the Port Townes in *Leinster* and *Mounster,* and possessed some scopes of land thereunto adioyning, partly by *Strongbowes* alliaunce with the Lord of *Leinster,* and partly, by plaine inuasion and Conquest.

And this is that Conquest of King *Henry* the second, so much spoken of, by so many Writers, which though it were in no other manner then is before expressed, yet is the entire Conquest of all *Ireland,* attributed vnto him.

But the troth is, the conquest of *Ireland* was made peece and peece, by slow steppes and degrees,

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and by seuerall attempts, in seuerall ages. There were sundry reuolutions, as well of the English fortunes as of the Irish; some-whiles one preuailing, some-whiles the other, and it was neuer brought to a full period, till his Maiesty that now is, came to the Crowne.

As for King *Henry* the second, hee was farre from obtaining that Monarchy Royall, and true Souueraignetie which his Maiesty (who nowe raigneth) hath ouer the Irish. For the Irish Lords did onely promise to become Tributaries of King *Henry* the second. And such as pay onely *Tribute*, though they bee placed by *Bodin*, *(Bodin de Repub.)* in the first degree of *Subiection*, are not properlie *Subiects* but *Soueraignes*. For, though they bee lesse and inferiour vnto the Prince to whom they pay Tribute, yet they hold all other pointes of Soueraignty; and hauing paide their Tribute which they promised, to haue their peace, they are quit of all other duties, as the same *Bodin* writeth. And therefore, though King *Henry* the second had the title of *Soueraigne Lorde* ouer the Irish, yet did he not put those thinges in execution, which are the true markes and differences of *Soueraigntie*.

The true markes of Soueraignty.

For, to giue Lawes vnto a people, to institute Magistrats and Officers ouer them; to punish and pardon Malefactors; to haue the sole authority of making warre and peace, and the like; are the true markes of Soveraignetie; which King *Henry* the second had not in the Irish Countreyes, but the Irish Lords did still retaine all these prerogatiues to themselues.

For they gouerned their people by the *Brehon Law:* they made their owne Magistrates and

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Officers; they pardoned and punnished all Malefactours within their seuerall Countries; they made warre and peace one with another, without controulment; and this they did not onely during the raigne of King *Henry* the second, but afterwardes in all times, even untill the raigne of Queen *Elizabeth:* And it appeareth what maner of subiects these Irish Lords were, by the Concorde made betweene K. *Henrie* the Second, and *Rodericke* ô *Connor* the Irish King of *Conaght,* in the yeare 1175, which is recorded by *Houeden* in this forme: *Hic est finis & Concordia, inter Dominū regem Angliæ Henricū, filiū Imperatricis, & Rodoricum Regem Conactæ, scilicet, quod Rex &c., Angliæ concessit prædict' Roderico Ligeo homini suo, vt sit Rex sub eo paratus ad seruitium suum, vt homo suus, &c.*[1] And the Commission, whereby King *Henry* the second made *William Fitz-Adelme* his Lieutenant of *Ireland,* hath this direction: *Archiepiscopis, Episcopis, Regibus, Comitibus, Baronibus, & omnibus fidelibus suis in Hibernia, Salutem.* Whereby it is manifest, that hee gaue those Irish Lords the title and stile of Kinges.

King *Iohn* likewise did grant diuers Charters to the King of *Conaght,* which remaine in the Tower of *London.*[2] And afterwards in the time of King *Henrie* the third, wee finde in the Tower, a graunt made to the King of *Thomond,* in these words: *Rex Regi* Tosmond *salutem. Concessimus vobis terram Tosmond quam prius tenuistis, per firmam*

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[1] (Houeden in Henrico secundo. fol. 312.)

[2] 6 Johannis Claus. membrana, 18. 17 Iohannis Chart. m. 3. 6 Hen. 3. Chart. m. 2.

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centum & triginta marcarum; Tenendum de nobis usque ad ætatem nostram: And in the pipe Rols remaining in *Bremighams* Tower, in the Castle of *Dublin,* vpon sundrie Accompts of the Seneshal of *Vlster* (when that Earledome was in the Kings handes, by reason of the minority of the Earle) the entry of all such charges as were made vppon *Oneale,* for Rent-Beeues, or for aids towards the maintenance of the Kinges warres, are in this forme. *(Archiv. in Castro Dublin.) Oneal Regulus* 400 *vaccas pro arreragio Reddit; Oneal Regulus* 100 li. *de Auxilio Domini Regis ad guerram suam in Wasconia sustinendam.* And in one Rol the 36 of Henry the third, *Oneale Rex,* 100 li. *de auxilio domini Regis ad guerram suam in Wallia Sustinendam.*[1] Which seemed strange to me, that the Kings ciuill Officer should giue him that stile vpon Record, vnlesse he meant it in that sense as *Maximilian* the Emperour did, when speaking of his disobedient Subiects; "The Title (saide he) of *Rex Regum,* doth more properly belong to mee then to any mortall Prince, for all my subiects do liue as Kings, they obey me in nothing, but do what they list." And truely, in that sence, these Irish Lords might not vnfitly be tearmed Kings. But to speake in proper termes, wee must say with the Latine Poet, *Qui rex est, Regem, Maxime non habeat.* But touching these Irish Kings, I will adde this note out of an ancient *Manuscript,* the blacke Booke of Christ-Church in *Dublin. Isti Reges non fuerunt ordinati solemnitate alicuius ordinis, nec vnctionis Sacramento, nec iure, hæreditario, vel aliqua pro-*

[1] 42. Henry 3. Compotus. Will. de la Zouch. 36 Hen. 3. Compotus, Huberti de Rouly.

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prietatis successione, sed vi & armis quilibet Regnē suum obtinuit: and therefore, they had no iust cause to complaine, when a stronger King then themselues, became a King and Lord ouer them. But let vs returne to our purpose, and see the proceeding of the Martiall affaires.

How the war was prosecuted in the time of King *Iohn.*

King *Henry* the second, being returned into England, gaue the Lordship of *Ireland* vnto the Lord *John* his youngest sonne, sur-named before that time, *Sans Terre.* And the Pope confirming that guift, sent him a Crowne of Peacockes feathers (as Pope *Clement* the eight, sent the Feather of a *Phœnix* (as he called it) to the Traitor *Tirone.*) [*Giraldus Cambrensis.*] This young Prince, the Kings sonne, being but twelue years of age, with a traine of yong Noblemen and Gentlemen, to the number of 300, but not with any maine army, came ouer to take possession of his new Patrimony, and being arriued at *Waterford,* diuers Irish Lords (who had submitted themselues to his father) came to performe the like duty to him. But that youthfull company vsing them with scorne, because their demeanors were but rude and barbarous, they went away much discontented, and raised a generall rebellion against him. (*Giraldus Cambrensis.*) Whereby it was made manifest, that the *Submission of the Irish Lords, and the Donation of the Pope, were but slender and weake assurances for a kingdome.*

Heereupon this young Lord was reuoked, and Sir *Iohn de Courcy* sent ouer, not with the kings armie, but with a company of *Voluntaries,* in number foure hundered, or thereabout. With these he attempted the conquest of *Vlster,* and in

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foure or fiue encounters, did so beate the Irishy of that Prouince, as that he gained all the *Maritime* Coasts thereof, from the *Boyne* to the *Bann;* and thereupon was made Earle of *Vlster*. *(Giraldus Cambrensis.)* So as now the English had gotten good footing in all the Prouinces of *Ireland*. In the first three Prouinces of *Leinster, Mounster,* and *Conaught,* part by the sword, and part by submission and alliance. And lastly, in *Vlster,* by the inuasion and victories of Sir *Iohn de Courcy*.

From this time forward, vntill the seuenteenth year of King *Iohn* (which was a space of more then 30 yeares) there was no army transmitted out of England, to finish the Conquest. Howbeit in the meane time, the English Aduenturers and Colonies alreadie planted in *Ireland,* did winne much ground vpon the Irish; Namely, the Earle *Strongbow,* hauing married the Daughter of *Mac Murrough,* in *Leinster,* the *Lacies* in *Meth;* the *Giraldines,* and other Aduenturers in *Mounster,* the *Audeleyes, Gernons, Clintons, Russels,* and other Voluntaries of Sir *Iohn de Courcies* retinue, in *Vlster;* and the *Bourkes* (planted by *William Fitz-Adelme*) in *Conaght*. Yet were the English reputed but Part-Owners of Ireland at this time, as appeareth by the Commission of the Popes Legate in the time of King *Richard* the first, whereby he had power to exercise his Iurisdiction, in *Anglia, Wallia, ac illis Hiberniæ partibus, in quibus* Iohannes *Moretonij Comes potestatem habet et dominium,* as it is recorded by *Mat. Paris. (Matth. Paris in Richardo primo.* 1519.)

King *John* in the twelfth year of his raigne, came ouer again into Ireland: the Stories of that

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time say, With a great army, but the certaine numbers are not recorded: yet it is credible, in regard of the troubles wherewith this King was distressed in England, that this army was not of sufficient strength to make an entire Conquest of Ireland; *(Matth. Paris.)* and if it had bin of sufficient strength, yet did not the King stay a sufficient time to perform so great an action, for he came ouer in Iune, & returned in Septem. the same yeare. Howbeit in that time, the Irish Lords for the most part, submitted thēselues to him, as they had done before to his Father: which was but a meere mockery & imposture. For his backe was no sooner turned, but they returned to their former rebellion: & yet this was reputed a *second Conquest.* And so this King giuing order for the building of some Castles vpon the Borders of the English Colonies, left behinde him the *Bishop of Norwich,* for the ciuill gouernment of the Lande; but he left no standing army to prosecute the conquest: onely the English Colonies which were alreadie planted, were left to themselues to maintaine what they had got, and to gaine more if they could.

The personall presence of these two great Princes, King *Henry* the second, and King *Iohn,* though they performed no great thing with their armies, gaue such countenaunce to the English Colonies, which encreased dayly by the comming ouer of new voluntaries and aduenturers out of *England,* as that they enlarged their Territories verie much. Howbeit after this time the kings of *England,* either because they presumed that the English Colonies were strong enough to roote out the Irish by degrees, or else because they were

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diuerted or disabled otherwise (as shall bee declared heereafter) neuer sent ouer any Royall armie, or anie numbers of men worthy to be called an army into *Ireland*, vntill the thirty six yeare of King *Edward* the thirde, when *Lionell* Duke of *Clarence*, the kings second sonne, hauing married the daughter and heyre of *Vlster*, was sent ouer with an extraordinary power in respect of the time (for the warres betwixt *England* and *Fraunce* were then in their heate) aswell to recouer his Earldome of *Vlster*, which was then ouer-run & possest by the Irish, as to reforme the English Colonies, which were become strangely degenerate throughout the whole kingdome.

This Charter yet remaineth perfect with an entire Seale in the Treasury at Westminster.

For though King *Henry* the thirde, gaue the whole Land of *Ireland* to *Eduard* the Prince, his eldest son, and his heyres, *Ita quod non Separetur a Corona Angliæ*. Whereupon it was styled the Land of the Lorde *Edwarde*, the kings eldest sonne: and all the Officers of the Land were called the Officers of *Edward* Lord of IRELAND; and though this *Edward* were one of the most actiue Princes that euer liued in England, yet did he not either in the life time of his father, or during his own raign, come ouer in person, or transmit any armie into Ireland, but on the other side, he drew sundry ayds & supplies of men out of *Ireland*, to serue him in his warres in *Scotland*, *Wales*, and *Gascoigne*. And again, though King *Edw*. the second sent ouer *Piers Gaueston* with a great retinue, it was neuer intended he should perfect the Conquest of Ireland, for the K. could not want his company so long a time, as must

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haue beene spent in the finishing of so tedious a worke. *(Archiv. in. Castro Dublin. & Archiv. Turr.* 52. *Hen.* 3. *patent. m.* 9.)

How the martiall affayres were carried from the 12 yeare of King *Iohn* to the 36 yeare of King *Edward* the 3.

So then, in all that space of time, betweene the twelfth yeare of King Iohn, and the 36 yeare of King *Edward* the third, containing 150 years, or thereabouts, although there were a continuall bordering war between the English and the Irish, there came no royall army out of *England,* to make an end of the warre. But the chiefe Gouernors of the realme, who were at first called *Custodes Hiberniæ ;* and afterwards *Lords Iustices,* and the English Lordes, who had gotten so great possessions and Royalties, as that they presumed to make warre and peace without direction from the State, did leuie all their forces within the land. But those forces were *weakely supplied* and Ill *Gouerned,* as I said before. Weakly supplied with men and Money; and gouerned with the worst Discipline that euer was seene among men of warre. And no maruell, for it is an infallible rule, that *an army ill paide is euer vnruly, and ill gouerned.* The standing forces heere, were sildome or neuer re-enforced out of *England,* and such as were either sent from thence, or raised heer, did commonly do more hurt and damage to the *English* Subiects, then to the Irish enemies, by their continuall *Sesse* and *Extortion.* Which mischiefe did arise, by reason that little or no Treasure was sent out of *England,* to pay the soldiers wages: Onely the Kings reuennew in Ireland was spent, and wholy spent in the publicke seruice; and therefore, in al the ancient Pipe-rols in the times of *Henry*

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the third, *Edward* the first, *Edward* the second, & *Edward* the third, betweene the Receipts and allowances, there is this entrie; *In Thesauro nihil.*[1] For the officers of the State and the Army, spent all; so, as there was no surplusage of Treasure; and yet that *All* was not sufficient. For in default of the Kings pay, aswell the ordinary forces which stood continually, as the extraordinarie, which were leuied by the cheefe Gouernor, upon iourneyes, and generall hoastings, were for the most part laid vpon the poore subiect descended of *English* race; howbeit this burden was in some measure tolerable in the time of King *Henry* the third, and King *Edward* the first; but in the time of King *Edward* the second, *Maurice Fitz-Thomas* of *Desmond*, beeing chiefe Commander of the army against the Scots, began that wicked extortion of *Coigne* and *Liuery*, and pay, that is: He and his army tooke Horse-meate and Mans-meate, and money, at their pleasure, without any Ticket, or other satisfaction.[2] And this was after time, the generall fault of all the Gouernours and Commanders of the army in this Lande. Onely the Golden saying of Sir *Thomas Rookesby*, who was Iustice in the thirtieth yeare of King *Edward* the 3. is recorded in all the Annalles of this kingdome, *That he would eate in wodden dishes, but would pay for his Meat, Gold and Siluer.*[3] Besides, the English Colonies being dispersed in euerie Prouince of this kingdome, were enforced to keepe continuall guards vpon the Borders & Marches round about them; which

[1] *Archiv. in Castro Dublin.*

[2] *Statut.* 10. *H.* 7. *cap* 4 *Rot. Parliam. in Castro Dublin.*

[3] Annales Hiberniæ in Camden.

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Guardes, consisting of idle souldiers, were likewise imposed as as a continuall burthen vppon the poore *English* Freeholders, whome they oppressed and impouerished in the same manner.[1] And because the great English Lords & Captaines had power to impose this charge, when, and where they pleased, manie of the poore Freeholders, were glad to giue vnto those Lords, a great part of their Lands, to hold the rest free from that extortion: And many others, not being able to endure that intollerable oppression, did vtterly quit their freeholds, and returned into *England*. By this meane, the english Colonies grew poore and weake, though the english Lords grew rich and mighty; for they placed Irish Tenants vppon the Landes relinquished by the English: vpon them they leuied all Irish exactions; with them they married, and fostered, and made Gossips: so as within one age, the English, both Lords and Free-holders, became degenerate and meer Irish in their Language, in their apparall, in their armes and manner of fight, & all other Customes of life whatsoeuer.

By this it appeareth, why the extortion of *Coigne* and *Liuory* is called in the old Statutes of *Ireland*, A *Damnable custome;* and the imposing & taking thereof, made *High Treason*.[2] And it is saide in an ancient discourse *Of the Decay of Ireland*, that though it were first inuented in *Hell*, yet if it had been vsed and practised there, as it hath been in Ireland, it had long since destroyed

[1] Baron Finglas Manus. Stat. 10. H. 7. cap. 4. Rot. Parliam. in Castro Dublin.

[2] Statut. 11. H. 4. cap. 6. Baron Finglas. M.S.

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the very kingdome of *Belzebub*. In this manner was the warre of *Ireland* carried, before the comming ouer of *Lionel* Duke of *Clarence*.

The Armie transmitted with Lionel Duke of Clarence, the 36 of *Edw.* the 3.

This young Prince, being Earle of *Vlster*, and Lord of *Conaght*, in right of his wife (who was daughter and heire of the Lord *William Bourke*, the last Earle of *Vlster* of that family, slaine by treachery at *Knockfergus*) was made the kings Lieutenant of *Ireland*, and sent ouer with an army, in the 36 year of King *Edward* the third. The Rol and List of which Army, doth remaine of Record in the Kings Remembrauncers office in *England* (in the presse *de Rebus tangentibus Hiberniam*) & dooth not containe aboue fifteene hundred men by the Poll; which because it differs somewhat from the manner of this age, both in respect of the *Command* and the *Entertainment*, I thinke it not impertinent to take a briefe view thereof. (*Archiv. Remem. regis apud. Westm.*)

The Lord *Lionel* was Generall, and vnder him *Raulf* earle of *Stafford*, *Iames* Earle of *Ormond*, Sir *Iohn Carew*, Banneret, Sir *William Winsor*, & other knights were Commanders.

The entertainment of the Generall vpon his first arriuall, was but six shillings eight pence, *per diem*, for himselfe; for fiue Knights, two shillings a peece, *per diem*; for 64 Esquires, xij.d. a peece, *per diem*; for 70 Archers, vj.d. a peece, *per diem*. But being shortly after created *Duke of Clarence* (which honor was conferred vpon him beeing heere in *Ireland*) his entertainement was raised to xiij.s. iiij.d. *per diem*, for himselfe, & for 8 Knights, ij.s. a peece *per diem*, with an encrease of the number of his Archers, viz., 360 Archers on

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horsebacke, out of *Lancashire*, at vj.d. a peece, *per diem*, and 23 Archers out of Wales, at ij.d. a peece *per diem*.

The earle of *Staffords* entertainment, was for himselfe vi.s. viij.d. *per diem*, for a Banneret, iiij.s. *per diem*, for xvij. Knights, ij.s. a peece *per diem*, for 78 esquires, xij.d. a peece *per diem*, for 100 Archers on horsebacke, vjd. a peece *per diem*. Besides, he had the command of 24 Archers out of *Staffordshire*, 40 Archers out of *Worcestershire*, & 6 Archers out of *Shropshire*, at iiij.d. a peece *per diem*.

The entertainment of *Iames* earle of *Ormond*, was for himselfe iiij.s. *per diem*, for two Knights, ij.s. a peece *per diem*, for 27 esquires xij.d. a peece *per diem*, for 20 Hoblers armed (the Irish Horsemen were so called, because they serued on *Hobbies*) vj.d. a peece *per diem*, and for 20 Hoblers not armed, iiij.d. a peece *per diem*.

The entertainement of Sir *Iohn Carew* Banneret, was for himselfe iiij.s. *per diem*, for one Knight, ij.s. *per diem*, for eight esquires, xij.d. a peece *per diem*, for ten Archers on horsebacke, vj.d. a peece *per diem*.

The entertainement of Sir *William Winsore*, was for himselfe ij.s. *per diem*, for two Knights, ij.s. a peece *per diem*, for 49 Squiers xij.d. a peece *per diem*, for six Archers on horseback, vj.d. a peece *per diem*.

The like entertainment rateably, were allowed to diuers Knightes and Gentlemen vpon that List, for themselves and their seuerall retinewes, whereof some were greater, and some lesse, as they themselues coulde raise them among their tenants and Followers.

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The manner of levying Souldiers in former ages.

For in ancient times, the King himselfe did not leuy his armies by his owne immediate authority or Commission, but the Lords and Captaines did by Indenture Couenant with the King, to serue him in his Wars with certaine numbers of men, for certain wages & entertainments, which they raised in greater or lesse numbers, as they had fauour or power with the people. This course hath been changed in later times vpon good reason of State: For the Barons and Chiefe Gentlemen of the realme, hauing power to vse the Kings prerogatiue in that point, became too popular; whereby they were enabled to raise forces euen against the Crown itself, which since the Statutes made for leuying and mustering of souldiers by the Kings speciall Commission, they cannot so easily performe, if they should forget their duties.

What seruice *Lionel* Duke of *Clarence* performed.

This *Lord Lieutenant*, with this small Army, perfourmed no great seruice; & yet vpon his comming ouer, all men who had Land in *Ireland*, were by Proclamation remaunded backe out of *England* thither, and both the Cleargy and Laity of this land, gaue two yeares profits of all their Landes and Tithes, towardes the maintenance of the war heere: only he suppressed some Rebels in Low *Leinster*, and recouered the Maritime parts of his erldome of *Vlster*.[1] But his best seruice did consist in the well gouerning of his army, and in holding that famous Parliament at *Kilkenny*; wherein the

[1] Archiv. Turr. 36. Edwd. 3. Claus. m. 21 in dorso, and m. 30.

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extortion of the souldier, and the degenerat manners of the English (briefly spoken of before) were discouered, and Lawes made to reforme the same: which shall bee declared more at large heereafter.

Sir *William Winsor* Lieutenant, 47 *Ed.* 3. his forces and seruice.

THE next *Lieutenant*, transmitted with any forces out of *England*, was Sir *William Winsore;* who in the 47 yeare of King *Edward* the third, vndertooke the *Custodie*, not the *Conquest* of this Land (for now the English made rather a *Defensiue* then an *inuasiue* war) and withal, to defray the whol charge of the kingdome, for eleaven thousand two hundred thirteene pounds, six shillings and eight pence, as appeareth by the Indenture between him and the King, remaining of Record in the Tower of *London*. (47 *Edw*. 3 *Claus*. *m*. 1.) But it appeareth by that which *Froissard* reporteth, that Sir *William Winsore* was so farre from subduing the Irish, as that himselfe reported: That he could neuer haue accesse to vnderstande and know their Countries, albeit he had spent more time in the seruice of Ireland, then any Englishman then liuing. (*Stow*. *in Richd*. 2.)

The State of the Revennue of Ireland, in the time of *Edward* the 3.

AND heere I may well take occasion, to shewe the vanity of that which is reported in the Story of *Walsingham*, touching the reuennue of the Crown in *Ireland*, in the time of king *Edward* the third. For he setting forth the State of things there, in the time of King *Richard* the 2., writeth thus: *Cum Rex Angliæ illustris, Edwardus tertius illic posuisset Bancum suum atq. Iudices, cum*

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Scaccario, percepit inde ad Regalem Fiscum annuatim triginta millia librarum; modò propter absentiam ligeorum, et hostium potentiam, nihil inde venit: sed Rex per annos singulos, de suo Marsupio, terræ defensoribus soluit Triginta millia marcarum, ad regni sui dedecus et fisci gravissimum detrimentū. (*Walsingham* in *Richard* the 2.)

If this Writer had knowne, that the Kings Courts had beene established in Ireland more then a hundred yeares before King *Edw.* 3. was borne, or had seene eyther the Parliament Rols in *England*, or the Records of the Receits and yssues in Ireland, he had not left this vaine report to posterity. For both the Benches and the Exchequer were erected in the twelfth year of King *Iohn*. And it is recorded in the Parliament Rols of 21 of Edward the third,[1] remaining in the Tower, that the Commons of England made petition that it might be enquired why the King receiued *no benefit* of his land of Ireland, considering he possessed more there, then any of his Ancestors had before him. Now, if the King at that time, when there were no Standing forces maintained there, had receiued 30000 pound yearely at his Exchequer in *Ireland*, he must needes haue made profit by that land, considering that the whole charge of the kingdome in the 47 yeare of *Edward* the third (when the King did pay an army there) did amount to no more then eleven thousand and two hundred pounds *per annum*, as appeareth by the contract of Sir *William Winsore*.[2]

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[1] Archiv. Turr. 11 Hen. 3. patent m. 3. 21 Edw. 3. m. 41.

[2] 47 Edw. 3. claus. pers. 2 m. 24 & 26.

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Besides, it is manifest by the Pipe-Rolles of that time, whereof many are yet preserued in *Bremingham*s Tower; and are of better credite then any Monkes story, that during the raigne of King *Edward* the third, the reuenew of the Crowne of Ireland, both certaine and casuall, did not rise vnto 10000 li. *per annum*, though the *Medium* be taken of the best seauen years that are to bee found in that Kinges time.[1] The like Fable hath *Hollingshead*[2] touching the reuennue of the Earledome of *Vlster*; which (saith hee) in the time of King *Richard* the second, was thirty thousand Markes by the yeare; whereas in truth, though the Lordships of *Conaght* and *Meth* (which were then parcell of the inheritaunce of the Earle of *Vlster*) be added to the accompt, the reuennew of that earledome came not to the thirde part of that he writeth. For the Accompt of the profits of *Vlster* yet remayning in *Breminghams* Tower, made by *William Fitz-warren*, Seneshall and Farmour of the Landes in *Vlster*, seized into the Kings hands after the death of *Walter de Burgo*, Earle of *Vlster*, from the fifth yeare of *Edward* the third, vntill the eight yeare, doe amount but to 900 and odde pounds, at what time the Irishry had not made so great an inuasion vpon the earledom of *Vlster*, as they had done in the time of King *Richard* the second. (*Archiv. in Castro. Dublin.* 5 *Edw.* 3.)

As vaine a thing it is, that I haue seen written in an ancient *Manuscript*, touching the Customes of this realme in the time of King *Edward* the

[1] Archiv. in Castro Dublin.

[2] Hollingshead in Richd. 2.

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third, that those duties in those daies should yearely amount to 10000 Markes, which by mine owne search and view of the Records heere, I can iustly controll. For vppon the late reducing of this ancient inheritance of the crown which had beene detained in most of the Port-Townes of this Realme, for the space of a hundred yeares and vpwardes, I tooke some paines (according to the duty of my place) to visit all the Pipe-Rolles, wherein the Accompts of Customes are contained, and found those duties aunswered in every Port, for 250 yeares together, but did not find that at any time they did exceed a thousand pound *per annum;* and no maruell, for the subsidie of Pondage was not then known, and the greatest profite did arise by the Cocquet of Hides; for Wooll, and Wool-fells were euer of little value in this Kingdome.

But now againe let vs see how the Martiall affayrs proceded in Ireland. Sir *William Winsor* continued his gouernment till the latter end of the raign of King *Edward* the thirde, keeping, but not enlarging, the English Borders.

How the war proceeded in time of the K. *Richard* the 2. 3 *Richd.* 2.

In the beginning of the raigne of King *Richard* the second, the State of *England* began to thinke of the recouery of Ireland. For then was the first Statute made against *Absentees,* commanding al such as had Land in Ireland, to returne & reside thereupon, vppon paine to forfeite two third parts of the profit thereof. Againe, this King, before himselfe intended to passe ouer, committed the Gouernment of this Realme to such great Lordes successiuely, as he did most loue and favor: first to the Earle of *Oxford* his Cheefe Minion, whom

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he created Marquesse of *Dublin*, and Duke of *Ireland:* next to Duke of *Surrey* his halfe Brother: and lastly, to the Lord *Mortimer*, Earle of *March* and *Vlster*, his Cosin and heyre apparant. (*Archiv. Turr. Rot. Parliam.* 42.)

Among the Patent Rolles in the Tower, the ninth yeare of *Rich.* the 2. we finde fiue hundred men at Armes at xij.d. a peece *per diem;* and a 1000 Archers at vi.pence a piece *per diem*, appointed for the Duke of Ireland, *Super Conquesta illius terræ per duos annos:*[1] For those are the wordes of that Record; But for the other two Lieutenants, I do not find the certain numbers, whereof their armies did consist. But certaine it is, that they were scarse able to defend the English borders, much lesse to reduce the whol Island. For one of them; namely, the Earle of *March*, was himselfe slain vpon the borders of *Meth;* for reuenge of whose death, the King himselfe made his second voyage into *Ireland*, in the last yeare of his raigne. For his first voyage in the eighteenth yeare of his raigne (which was indeed a Voyage-Royall) was made vpon another motiue and occasion, which was this:[2] Vpon the vacancy of the Empire, this King hauing married the King of *Bohemiaes* Daughter (whereby hee had great alliance in *Germany*) did by his Ambassadors solicit the Princes Electors to choose him Emperour: but another being elected, and his ambassadors returned, hee would needes know of them the cause of his repulse in that Competition:

[1] Pat. 2. pars. 9. Richd. 2. m. 24.

[2] Walsingham in Richard the 2. Annales Tho. Otterbourne Manuscript.

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they tolde him plainly, that the Princes of *Germanie* did not thinke him fit to commaund the Empire, who was neither able to hold that which his Ancestours had gained in *France*, nor to rule his insolent Subiects in *England*, nor to Maister his rebellious people of *Ireland*. This was enough to kindle in the heart of a young Prince, a desire to performe some great enterprise. And therefore finding it no fit time to attempt *France*, he resolued to finish the Conquest of *Ireland;* and to that end, he leuied a mightie armie, consisting of foure thousand men at Armes, and 30000 Archers, which was a sufficient power to haue reduced the whol Island, if he had first broken the Irish with a warre, and after established the English Lawes among them, and not haue beene satisfied with their light submissions onely, wherewith, in all ages they haue mockt and abused the State of *England*. But the Irish Lords knowing this to be a sure pollicie to dissolue the forces which they were not able to resist (for their Ancestors had put the same trick and imposture vppon King *Iohn*, and King *Henry* the second,) assoone as the King was arriued with his army, which he brought ouer vnder S. *Edwards* Banner (whose name was had in great veneration amongst the Irish) they all made offer to submit themselues. (*Stow in Rich.* 2.) Whereupon the Lorde *Thomas Mowbray*, Earle of *Nottingham*, and Marshall of *England*, was authorized by speciall Commission, to receiue the homages & Oaths of fidelity, of all the Irishrie of *Leinster*. (*Archiv. in officio Remomorat regis apud Westmon*). And the King himselfe hauing receiued humble Letters from *Oneale*, (wherein hee styleth himselfe Prince of the Irishry

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in *Vlster*, and yet acknowledgeth the King to be his Soueraign Lorde, *& perpetuus Dominus Hiberniæ*) remoued to *Droghedah*, to accept the like submissions from the Irish of *Vlster*. The men of *Leinster*, namely, *Mac Murrogh, O Byrne, O Moore, O Murrogh, O Nolan*, and the cheefe of the *Kinshelaghes*, in an humble and solemn manner did their homages, & made their Oaths of fidelity to the Earl Marshall, laying aside their girdles, their skeins and their Caps, and falling down at his feet vpon their knees. Which whē they had performed, the Earle gaue to each of them *Osculum pacis*.

Besides, they were bound by seueral Indentures, vpon great paines to bee paide to the Apostolique Chamber, not onely to continue loyall subiects, but that by a certaine day prefixed, they and all their Sword-men should clearely relinquish and giue vp vnto the King and his successors all their Landes and Possessions which they held in *Leinster*, and (taking with them onely their moueable goods) shold serue him in his warres against his other Rebels. In consideration whereof, the King should giue them pay & pensions during their liues, and bestow the inheritance of all such lands vpon them, as they shoulde recouer from the Rebels, in any other part of the Realme. And thereupon, a pension of eighty Markes, *per annum*, was graunted to *Art' Mac Murrough*, chiefe of the *Kavanaghes*; the enroulement whereof, I found in the White Booke of the Exchequer heere. And this was the effect of the seruice performed by the Earle *Marshall*, by vertue of his Commission. The King in like manner receiued the submissions of the Lords of *Vlster*; namely, *O Neal, O Hanlon, Mac Donel,*

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Mac Mahon, & others; who with the like Humility and Ceremony, did homage and fealtie to the Kings owne person; the words of *O Neales* homage as they are recorded are not vnfit to be remembered. *Ego Nelanus Oneal Senior tam pro meipso, quam pro filiis meis, & tota Natione mea & Parentelis meis, & pro omnibus subditis meis deuenio Ligeus homo vester, &c.* And in the Indenture betweene him and the King, he is not onely bound to remaine faithfull to the Crowne of England, but to restore the *Bonaght* of *Vlster*, to the Earle of *Vlster*, as of right belonging to that Earledome, & vsurped among other things by the *Oneales*.

These Indentures and submissions, with many other of the same kinde (for there was not a Chieftaine or head of an Irish sept, but submitted himselfe in one forme or other) the King himselfe caused to bee enrolled and testified by a Notary publique, & deliuered the enroulments with his owne hands to the Byshop of *Salisbury*, then Lord Treasurer of *England*, so as they haue beene preserued, and are now to be found in the Office of the Kings Remembrancer there.

With these humilities they satisfied the young King, and by their bowing and bending, auoyded the present storme, and so brake that Army, which was prepared to breake them. For the King having accepted their submissions, receiued them in *Osculo pacis*, feasted them, and [hauing] giuen the honor of Knighthood to diuers of thē, did breake vp and dissolue his armie, and returned into *England* with much honor, & smal profit, (saith *Froissard*.) For though he had spent a huge masse of Treasure in transporting his army, by the countenance whereof, he drew on their

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submissions, yet did hee not encrease his reuennew thereby one sterling pound, nor enlarged the *English* borders the bredth of one Acre of Land; neither did he extend the Iurisdiction of his Courtes of Justice one foote further then the English Colonies, wherein it was vsed and exercised before. Besides, he was no sooner returned into *England*, but those *Irish* Lords laide aside their maskes of humility, and scorning the weake forces which the King had left behinde him, beganne to infest the borders; in defence whereof, the Lord *Roger Mortimer* being then the Kings Lieutenant, and heire apparent of the Crowne of *England*, was slaine, as I saide before. Whereupon, the King being moued with a iust appetite of reuenge, came over againe in person, in the 22 yeare of his raigne, with as potent an armie as he had done before, with a ful purpose to make a full Conquest of Ireland: he landed at *Waterford*, and passing from thence to *Dublin*, through the wast Countries of the *Murroghes*, *Kinshelaghes*, *Cauanaghes*, *Birnes*, and *Tooles*, his great armie was much distressed for want of victuals and carriages, so as he performed no memorable thing in that iourney; onely in the *Cauanaghes* Countrey, hee cut and cleared the paces, and bestowed the honor of Knighthood vpon the Lord *Henry*, the Duke of *Lancasters* son, who was afterwards King *Henrie* the fifte, and so came to *Dublin*, where entring into Counsell how to proceede in the warre, he receiued newes out of *England*, of the arriuall of the bannished Duke of *Lancaster* at *Rauenspurgh*, vsurping the Regall Authority, and arresting and putting to death his principall Officers. (*Hollingshead in Richard the* 2.)

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This aduertisement suddainely brake off the Kings purpose touching the prosecution of the warre in Ireland, and transported him into England, where shortly after hee ended both his raigne and his life. Since whose time, vntill the 39 yeare of Q. *Elizabeth*, there was neuer any armie sent ouer of a Competent strength or power to subdue the Irish, but the warre was made by the English Colonies, onely to defend their borders; or if any forces were transmitted ouer, they were sent onely to suppresse the rebellions of such as were descended of English race, and not to enlarge our Dominion ouer the Irish.

Henry 4. The Lord *Thomas* of *Lancaster* his seruice.

DURING the raigne of King *Henrie* the fourth, the Lorde *Thomas* of *Lancaster*, the Kings second sonne, was Lieutenant of *Ireland*, who for the first eight yeares of that Kings raign, made the Lord *Scroope*, and others his Deputies, who only defended the Marches with forces leuied within the Land. In the eight yeare that Prince came ouer with a small retinue. So as wanting a sufficient power to attempt or performe any great seruice, he returned within seuen moneths after into *England*. Yet during his personall abode there, he was hurt in his owne person within one mile of *Dublin*, vpon an incounter with the Irish enemy. He tooke the submissions of *O Birne* of the Mountaines, *Mac Mahon* and *O Rely*, by seuerall Indentures, wherein *O Birne* doth Couenant, that the King shall quietly enioy the Mannor of *New Castle*; *Mac Mahon* accepteth a State in the *Ferny* for life, rendering ten pound a yeare; and *O Reley* doth promise to performe such duties to the Earle

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of *March* and *Vlster*, as were contained in an Indenture dated the 18 of *Richard* the second. (*Archiv. Rememorat. regis apud Westm.*)

Henry 5. The Lorde *Furniuall* his seruice. *Alb. libr. Scacc. Dublin.*

In the time of K. *Henry* the fift, there cam no forces out of *England*. Howbeit the Lord *Furnival* being the kings Lieutenant, made a martial circuit, or iourney, round about the Marches & Borders of the Pale, and brought all the Irish to the Kinges peace, beginning with the *Birnes*, *Tooles*, and *Cauanaghes* on the South, and so passing to the *Moores*, *O Connors* and *Offerals* in the West; and ending with the *O Relies*, *Mac Mahons*, *O Neales*, and *O Hanlons* in the North. Hee had power to make them seeke the Kings peace, but not power to reduce them to the Obedience of Subiectes: yet this was then held so great and worthy a seruice, as that the Lords & chiefe Gentlemen of the Pale, made certificate thereof in French vnto the King, being then in *France*: which I haue seen recorded in the *white Booke* of the Exchequer at *Dublin*. Howbeit his Armie was so ill paid and gouerned, as the English suffered more dammage, by the Sesse of his Souldiers, (for now that Monster (*Coigne*, and *Liuerie*,) which the Statute of *Kilkenny* had for a time abolished, was risen againe from hell) then they gained profit or security, by abating the pride of their enemies for a time.

Henry 6.

During the minority of King *Henry* the sixt, and for the space of seuen or eight yeares after, the Lieutenants and Deputies made only a bordering warre vpon the Irish, with small and scattered forces; howbeit, because there came no treasure out of *England* to pay the Soldier, the

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poore English subiect did beare the burthen of the men of warre in euery place, & were thereby so weakned and impouerished, as the State of thinges in Ireland, stood very desperate.

Whereupon, the Cardinall of *Winchester* (who after the death of *Humfrey* Duke of *Glocester*, did wholly sway the State of *England)* beeing desirous to place the Duke of *Somerset* in the Regencie of *Fraunce*, tooke occasion to remoove *Richard* Duke of *Yorke* from that gouernment, and to send him into *Ireland*, pretending that hee was a most able and willing person, to performe seruice there, because he had a great inheritance of his owne in Ireland; namely, the Earledome of *Vlster*, and the Lordships of *Conaught* & *Meth*, by discent from *Lionell* Duke of *Clarence*.

Richard Duke of *Yorke* his seruice.

We do not finde that this great Lord came ouer with any numbers of waged souldiers, but it appeareth vpon what good termes hee tooke that Gouernment, by the Couenants betweene the King and him, which are recorded and confirmed by Acte of Parliament in Ireland, and were to this effect: *(Archiv. in Castro Dublin.)*

1. That he should be the Kings Lieutenant of *Ireland*, for ten yeares.
2. That to support the charge of that Countrey, he should receiue al the Kings reuennewes there, both certaine and casual, without accompt.
3. That he should bee supplyed also with treasure out of *England*, in this maner; he should haue four thousand Markes for the first yeare, whereof he should bee imprested 2000 li. before hand; and for the other nine yeares, he should receiue 2000 li. *per annum*.

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4. That hee might Let to Ferme the Kings Landes, and place and displace all Officers at his pleasure.
5. That he might leuy and wage what numbers of men he thought fit.
6. That he might make a Deputy, and returne at his pleasure.

We cannot presume that this Prince kept any great army on foote, aswell because his means out of *England* were so meane, and those ill paide, as appeareth by his passionate letter written to the Earl of *Salisbury* his brother in Law; the Coppy whereof is Registred in the Story of this time: as also because the whole Lande, except the English Pale, and some part of the Earldome of *Vlster*, vppon the Sea-Coasts, were possest by the Irish. (*Hollingshead in Henry the sixt.*) So as the Reuennew of the Kingdome, which he was to receiue, did amount to little. He kept the Borders and Marches of the Pale with much adoo; he held many Parliaments, wherein sundry Lawes were made, for erecting of castles in *Louth*, *Meth*, and *Kildare*, to stop the incursions of the Irishrie. And because the souldiers for want of pay were sessed and laide vppon the subiects against their willes; vpon the prayer and importunitie of the Commons, this extortion was declared to be *High Treason*. But to the end, that some meanes might be raised to norish some forces for defence of the Pale, by another Acte of Parliament, euerie twenty pound Land was charged with the furnishing and maintenance of one Archer on horsebacke. (*Rot. Parliam. in Castro Dublin.*)

Besides, the natiue subiects of *Ireland* seeing the kingdome vtterly ruined, did passe in such numbers into *England*, as one Law was made in

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England, to transmit them backe againe; and another Law made heere to stop their passage in every Port & creeke.[1] Yet afterwards, the greatest partes of the Nobility and Gentry of *Meth*, past ouer into England, and were slaine with him at *Wakefield* in *Yorkshire*.[2]

Lastly, the State of England was so farre from sending an army to subdue the Irish at this time, as among the Articles of greeuances exhibited by the Duke of *Yorke* against K. *Henry* the sixte, this was one: That diuers Lords about the King, had caused his Highnesse to write Letters vnto some of his Irish enemies; whereby they were encouraged to attempt the conquest of the said Land. (*Hollingshead in Hen.* 6.) Which Letters, the same Irish enemies had sent vnto the Duke; maruailing greatlie that such Letters should be sent vnto them, & speaking therein great shame of the Realme of *England*.

After this, when this great Lorde was returned into *England*, and making claime to the Crowne, beganne the Warre betwixt the two Houses; It cannot be conceiued, but that the kingdome fell into a worse and weaker estate.

Edward 4. How the war was maintained in the time of King *Edward* the 4.

When *Edward* the fourth was setled in the kingdome of England, he made his Brother *George* Du. of *Clarence*, Lieutenant of *Ireland*. This Prince was born in the Castle of *Dublin*, during the Gouernment of his father the Duke of Yorke; yet did hee neuer passe over into this

[1] Archiv. Tur. 17. Henry 6. Claus. m. 20.

[2] Manuscript of Baron Finglas.

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kingdome, to gouerne it in person, though hee held the Lieutenancie many yeares. But it is manifest, that King *Edward* the fourth did not pay any army in Ireland during his raigne; but the men of war did pay themselves by taking Coigne and Liuery vpon the Countrey: which extortion grew so excessive and intollerable, as the Lord *Tiptoft* being Deputy to the Duke of *Clarence*, was enforced to execute the Law vppon the greatest Earle in the Kingdome; namely, *Desmond;* who lost his head at *Drogheda* for this offence.[1] Howbeit, that the State might not seeme vtterly to neglect the defence of the Pale, there was a fraternity of men at armes, called *the Brother-hood of S. George*, erected by Parlament the 14 of *Edward* the fourth, consisting of thirteene the most Noble and woorthy persons within the foure shires.[2] Of the first foundation were *Thomas* Earle of *Kildare*, Sir *Rowland Eustace*, Lord of *Port-lester*, and Sir *Robert Eustace* for the County of *Kildare; Robert* Lord of *Howth*, the Maior of *Dublin*, and Sir *Robert Dowdall*, for the County of *Dublin;* the Vicount of *Gormanston*, *Edward Plunket*, Seneshall of *Meth; Alexander Plunket* and *Barnabe Barnewale*, for the County of *Meth;* the Maior of *Drogheda*, Sir *Lawraunce Taaffe* and *Richard Bellewe*, for the Countie of *Lowth*. These and their successors were to meet yearely upon *S. Georges* day; and to choose one of themselues to be Captaine of that Brother-hood, for the next yeare to come. Which Captaine should haue at his commaund, 120 Archers on

The fraternity of Saint *George* in Ireland.

[1] Hollingshead in Edward the 4. Booke of Howth. Manus.

[2] 14 of Edw. 4. Rot. Parliam. Dublin.

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horsebacke, 40 horsemen, and 40 Pages, to suppresse Out-lawes and rebels. The Wages of euery Archer should be vj.d. *Per diem;* & euery horseman v.d. *Per diem;* and foure Markes *Per Annum.* And to pay these entertainments, and to maintain this new fraternity, there was granted vnto them by the same Act of Parliament a subsidie of Pondage, out of all Marchandizes exported or imported thoroughout the Realme (hydes, and the goods of Free-men of *Dublin* & *Drogheda* onely excepted). These 200 men were al the standing forces that were then maintained in Ireland. And as they were Natiues of the kingdom, so the kingdom itselfe did pay their wages without expecting any treasure out of *England.*

Henrie 7. How the war was prosecuted in the time of King *Henry* the 7.

BVT now the warres of *Lancaster* and *Yorke* being ended, and *Henrie* the seuenth being in the actuall & peaceable possession of the kingdome of *England,* let vs see if this king did send ouer a Competent Armie to make a perfect Conquest of *Ireland.* Assuredly, if those two Idolles or counterfets which were set vp against him in the beginning of his raign, had not found footing and followers in this Lande, King *Henry* the seuenth had sent neither horse nor foote hither, but let the Pale to the Guard and defence of the fraternitie of *Saint George,* which stood till the tenth year of his raigne. And therefore, vpon the erection of the first Idoll, which was *Lambert* the Priests Boy, he transmitted no forces, but sent ouer Sir *Richard Edgecomb,* with Commission to take an Oath of allegiance of al the Nobility, Gentry, and Citizens of this kingdom; which seruice he

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performed fully, and made an exact returne of his Commission to the King.[1] And immediately after that, the King sent for all the Lordes of Parliament in this realme; who repayring to his presence, were first in a Kingly manner reprooued by him; for among other things he told them, that if their king were still absent frō them, they would at length Crowne Apes; but at last entertained them, and dismissed them graciously. (*The Booke of Howth Manus.*) This course of clemency hee held at first. But after, when *Perkin Warbecke*, who was set vp, and followed chiefely by the *Giraldines* in *Leinster*, and the Cittizens of *Corke* in *Mounster*; to suppresse this counterfaite, the King sent ouer Sir *Edward Poynings*, with an Army (as the Histories call it) which did not consist of a thousand men by the Pol; and yet it brought such terrour with it, as all the Adherents of *Perkin Warbecke* were scattered, and retyred for succour into the Irish Countries: to the marches whereof, hee marched with his weake forces, but eft-soones, returned & held a Parliament. (*Hollingshead in Henry* the 7.) Wherin among many good Lawes, one Act was made; That no subiect shold make any warre or peace within the Land, without the speciall License of the Kings Lieutenant or Deputie. (*Rot. Parliam. in Castro Dublin.*) A manifest argument, that at that time the bordering Warres in this kingdome, were made altogether by Voluntaries, vpon their own head, without any pay or entertainement, and without any Order or Commission from the State. And though the

Sir *Edward Poynings* seruice.

[1] Archiv. Remem. Regis apud. Westm.

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Lords and Gentlemen of the Pale, in the 19 yeare of this Kings raigne, ioyned the famous battel of *Knocktow* in *Conaght;* wherein *Mac William*, with 4000 of the Irish, and degenerat English were slaine; yet was not this iourny made by warrant from the King, or vypon his charge (as it is expressed in the Booke of *Howth*) but only vpon a priuate quarrell of the Earle of *Kildare:* so loosely were the martiall affaires of *Ireland* carried, during the raigne of King *Henry* the seuenth.

The Booke of *Howth*. The battel of *Knocktow*.

In the time of King *Henry* the eight, the Earle of *Surrey*, Lorde Admirall, was made Lieutenant; and though he were the greatest Captain of the English Nation then liuing; yet broght he with him rather an honorable Guard for his person, then a competent armie to recouer Ireland. For he had in his retinue 200 tall Yeomen of the Kings Guard: But because hee wanted meanes to performe any great action, hee made meanes to returne the sooner: yet in the meane time he was not ydle, but passed the short time he spent heere, in holding a Parliament, and diuers iournies against the Rebels of *Leinster;* insomuch as he was hurt in his own person, vpon the borders of *Leix*. After the reuocation of this honourable personage, King *Henry* the eight, sent no forces into *Ireland*, till the rebellion of the *Giraldines*, which hapned in the 27 yeare of his raigne. Then sent he ouer *Sir William Skeuington* with fiue hundred men onely to quench that fire, and not to enlarge the border, or to rectifie the Gouerment. This Deputy dyed in the midst of the seruice, so

Henrie 8. How the war was carried during the raigne of K. *Henrie* 8. The Earle of Surries seruice.

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The Lord *Leonard Grayes* service. as the Lord *Leonard Gray* was sent to finish it: who arriuing with a supply of 200 men, or thereabouts, did so prosecute the Rebels, as the Lord *Garret* their Chiefetaine, and his fiue Vnckles, submitted themselues vnto him, and were by him transmitted into England.

But this seruice being ended, that actiue Nobleman with his little army, and some ayds from the Pale, did oftentimes repell *O Neale* and *O Donel*, attempting the inuasion of the Ciuill Shires, and made that prosperous fight at *Belaboo*, on the confines of *Meth*; the memory whereof is yet famous, as that he defeated (well-nie) all the power of the North; and so quieted the border for many yeares.

The fight at *Bealaboo*. Booke of *Howth. Manus.*

Hitherto then it is manifest, that since the last transfretation of King *Richard* the second, the Crowne of England neuer sent ouer, either numbers of men, or quantities of treasure, sufficient to defend the small Territory of the Pale, much lesse to reduce that which was lost, or to finish the Conquest of the whole Island.

After this, Sir *Anthony St. Leger* was made chiefe Gouernor, who performed great seruice in a ciuill course, as shall be expressed hereeafter. But Sir *Edward Bellingham*, who succeeded him, proceeded in a Martiall course against the Irishry, and was the first Deputy, from the time of K. *Edward* the third, till the raign of King *Edward* the sixt, that extended the border beyond the limits of the English Pale, by beating and breaking the *Moores* and *Connors*, and building the Forts of *Leix* and *Offaly*. This seruice he performed with sixe hundered horse; the monthly charge where of

Sir *Anthonie Saint Leger*. Sir *Edwd. Bellingham* in the time of K. *Edward* the 6.

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did arise to 770 li., and 400 foote, whose pay did amount to 446 li. *per mensem;* as apeareth vpon the Treasurers accompt, remaining in the Office of the Kinges Rembrauncer in England. *(Archiv. Remem. Regis apud. West.)* Yet were not these Countries so fully recouered by this Deputy, but that *Thomas* Earle of *Sussex,* did put the last hand to this worke; and rooting out these two rebellious *Septs,* planted English Colonies in their roomes, which in all the tumultuous times since, haue kept their Habitations, their Loyalty, and Religion.

Thomas Earle of Sussex, in the time of *Qu. Mary.*

And now are we come to the time of Queene ELIZABETH, who sent ouer more men, and spent more treasure to saue and reduce the Lande of *Ireland,* then all her progenitors since the Conquest.

Queen Elizabeth.

DVRING her raigne, there arose three notorious and maine Rebellions, which drewe seuerall armies out of England. The first of *Shane O Neale;* the second, of *Desmond;* the last of *Tyrone;* (for the particular insurrections of the Vicount *Baltinglasse,* and Sir *Edmund Butler;* the *Moores;* the *Cavanaghes;* the *Birnes,* and the *Bourkes of Conaght,* were all suppressed by the standing forces heere.)

How the War was prosecuted in the time of Qu. Elizabeth.

To subdue *Shane O Neal* in the hight of his rebellion, in the yeare 1566, Captaine *Randal* transported a Regiment of 1000 men into *Vlster,* & planted a Garrison at *Loughfoile.* Before the comming of which supply (viz.) in the yeare 1565, the List of the standing army of horse and foot, English and Irish, did not exceed

Shane O Neales Rebellion.

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the number of 1200 men, as appeareth by the Treasurers accompt of Ireland, now remaining in the Exchequer of England. (*Archiv. Remem. Regis apud. Westm.*) With these forces did Sir *Henry Sidney* (then Lord Deputy) march into the farthest parts of *Tirone*, and ioyning with Captaine *Randal*, did much distresse (but not fully defeate) *O Neale*, who was afterwards slaine vpon a meere accident by the Scottes, and not by the Queenes army.

Desmonds Rebellion.

To prosecute the Warres in *Munster*, against *Desmond* and his Adherents, there were transmitted out of *England* at seuerall times, three or foure thousand men, which together with the standing Garrisons, and some other supplies raised heere, made at one time, an army of six thousand & vpwards: which with the Vertue and valour of *Arthur* Lorde *Gray*, and others the Commanders, did proue a sufficient power to extinguish that rebellion. But that being doone, it was neuer intended that these forces should stand, till the rest of the kingdome was setled and reduced: onely, that army which was brought ouer by the Earle of *Essex*, Lorde Lieutenant and Gouernor generall of this kingdom, in the 39 yeare of Queen *Elizabeth*, to suppresse the Rebellion of *Tirone*, which was spred vniuersally ouer the whole Realme: That armie, I say, (the command whereof, with the gouernment of the Realme, was shortly after transferred to the commaund of the Lord *Mountioy*, afterwards Earl of *Deuonshire*, who, with singular wisedome, valour and industry, did prosecute & finish the Warre) did consist of such good men of warre, and of such numbers,

Tyrones Rebellion.

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being wel-ny 20000 by the Pol, and was so royally supplied and paid, and continued in ful strength so long a time, as that it brake, and absolutely subdued all the Lordes and Chiefetaines of the Irishry, and degenerate or rebellious English. Whereupon, the multitude, who euer loued to bee followers of such as could master and defend them, admyring the power of the Crowne of England, being brai'd (as it were) in a Morter, with the *Sword, Famine, & Pestilence* altogither, submitted themselues to the English Gouernment, receiued the Lawes and Magistrates, and most gladly embraced the Kings pardon and peace in all parts of the Realme, with demonstration of ioy and comfort; which made indeede, an entire, perfect, and finall Conquest of *Ireland*. And thogh vpon the finishing of the warre, this great armie was reduced to lesse numbers, yet hath his Maiestie in his Wisedome, thought it fit, stil to maintaine such competent forces heere, as the Law may make her progresse & Circuit about the Realme, vnder the protection of the sword (as *Virgo*, the figure of Iustice, is by *Leo* in the *Zodiack*) vntill the people haue perfectly learned the Lesson of Obedience, & the Conquest bee established in the hearts of all men.

Foure maine defects in the prosecution of the warre.

THUS farre haue I endeuoured to make it manifest, that from the first aduenture and attempt of the English (to subdue and conquer Ireland) vntill the last warre with *Tyrone*, (which as it was royally vndertaken, so it was really prosecuted to the end) there hath bin foure maine defects in the carriage of the martiall affayres heere. First, the armies

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for the most part, were too weake for a Conquest: Secondly, when they were of a competent strength (as in both the iournies of *Richard* the second) they were too soone broken vp and dissolued: Thirdly, they were ill paide: And fourthly, they were ill Gouerned, which is alwayes a consequent of ill payment.

Why none of the Kinges of England, before Queene *Elizabeth*, did finish the conquest of Ireland.

BVT why was not this great worke perfourmed, before the latter end of Queene *Elizabeths* raigne, considering that many of the Kings her Progenitors, were as great Captaines as any in the world, and had else-where larger Dominions and Territories? First, who can tell whither the Diuine Wisedom, to abate the glory of those Kings, did not reserue this Worke to be done by a Queen, that it might rather appeare to be his owne imediate worke? And yet for her greater Honor, made it the last of her great actions, as it were, to Crowne al the rest? And to the end, that a secure peace might settle the Conquest, and make it firme and perpetuall to posteritie; caused it to bee made in that fulnesse of time, when *England* and *Scotland* became to be vnited under one imperiall Crowne; and when the Monarchy of Great *Britainy* was in league and amity with all the worlde. Besides, the Conquest at this time, doth perhaps fulfill that prophesie, wherin the four great Prophets of *Ireland* do concur, as it is recorded by *Giraldus Cambrēsis;* to this effect: That after the first inuasion of the English, they shold spend many ages, in *crebris conflictibus, longoque certamine & multis cœdibus.* And that, *Omnes fere Anglici ab Hibernia turbabuntur: nihi-*

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lominus orientalia maritima semper obtinebunt: Sed vix Paulo anté diem Iuditij; plenam Anglorum populo victoriam compromittunt; Insula Hibernica de mari vsque ad mare de toto subacta & incastellata (Giraldus Cambrensis). If S. *Patrick* and the rest did not vtter this prophesy; certainly *Giraldus* is a Prophet, who hath reported it. To this, we may adde the prophesy of *Merlin*, spoken of also by *Giraldus:—Sextus mœnia Hiberniæ subuertet, & regiones in Regnum redigentur.* Which is performed in the time of King *Iames* the sixt; in that all the paces are cleared, and places of fastnesse laid open, which are the proper Wals & Castles of the Irish, as they were of the British in the time of *Agricola:* and withal, the Irish Countries beeing reduced into Counties, make but one entire and vndeuided kingdome.

But to leaue these high & obscure causes, the plaine and manifest trueth is; that the Kings of *England* in al ages, had bin powerfull enough, to make an absolute conquest of *Ireland*, if their whole power had been employed in that enterprize: but still there arose sundry occasions, which diuided and diuerted their power som other way.

How the seuerall Kings of England were diuerted from the conquest of Ireland.

Let us therefore take a briefe view of the seuerall impediments which arose in euery Kinges time, since the first ouerture of the Conquest, whereby they were so employed and busied, as they could not intend the finall Conquest of *Ireland.*

King Henrie 2.

KING *Henrie* the second, was no sooner returned out of *Ireland*, but all his foure Sonnes conspired with his enemies, rose in Armes, and

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moued warre against him, both in *Fraunce* and in *England*.

This vnnatural treason of his sons, did the King expresse in an Embleme painted in his Chamber at *Winchester*, wherein was an Eagle, with three Eglets tyring on her brest; & the fourth pecking at one of her eyes. And the troth is, these vngracious practises of his sonnes, did impeach his iourney to the Holy Land, which he had once vowed, vexed him all the dayes of his life, and brought his gray haires with sorrow to the graue. Besides, this King hauing giuen the Lordship of *Ireland* to *Iohn* his youngest sonne; his ingratitude afterwards made the king carelesse to settle him in the quiet and absolute possession of that kingdome.

The Booke of *Howth. Manus.*

RICHARD the first, which succeeded *Henrie* the second in the kingdom of *England*, had lesse reason to bend his power towardes the Conquest of this Land, which was giuen in perpetuity to the Lord *Iohn* his brother. And therefore, went hee in person to the holy warre; by which iourney, & his captiuity in *Austria*, and the heauy ransom that he paid for his libertie, hee was hindred, and vtterly disabled to pursue any so great an action as the Conquest of *Ireland*; And after his deliuery and returne, hardly was he able to maintaine a frontier warre in Normandy, where by hard fortune he lost his life.

Richard 1.

KING *Iohn* his Brother, had greatest reason to prosecute the Warre of *Ireland*, because the Lordship thereof was the portion of his inheritance, giuen vnto him, when hee was called *Iohn*

K. Iohn.

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Sans-Terre. Therefore, hee made two iournies thither; one, when he was Earle of *Morton*, and very yong, about twelue years of age; the other, when he was King, in the 12 yeare of his raigne. In the first, his own youth, and his youthfull company, *Roboams* Counsellours, made him hazard the losse of al that his father had won. But in the later, he shewed a resolution to recouer the entire Kingdome, in taking the submissions of al the Irishy, and setling the estates of the English, and giuing order for the building of many Castles and Forts, whereof some remaine vntill this day. But hee came to the Crowne of England, by a defeasible Title, so as he was neuer well setled in the hearts of the people, which drew him the sooner back out of *Ireland* into *England*: where shortlie after, he fell into such trouble and distresse; The Clergy cursing him on the one side; and the Barons rebelling against him on the other, as hee became so farre vnable to return to the Conquest of *Ireland*, as besides the forfeiture of the territories in *Fraunce*, he did in a manner loose both the kingdomes. For he surrendered both to the Pope, and tooke them backe againe to hold in Fee-farme; which brought him into such hatered at home, and such contempt abroad, as all his lifetime, hee was possest rather with feare of loosing his head, then with hope of reducing the kingdome of *Ireland*.

Henric 3. DVRING the infancy of *Henry* the 3, the Barons were troubled in expelling the French, whome they had drawne in against King *Iohn*. But this prince was no sooner come to his maiority, but the Barons raised a long and cruell war against him.

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Into these troubled waters, the Bishops of *Rome* did cast their Nets, and drew away all the wealth of the realm by their prouisions, and infinite exactions, whereby the kingdome was so impouerished, as the King was scarse able to feed his owne housholde and traine, much lesse to nourish armies for the conquest of forren kingdoms. And albeit he had giuen this Land to the Lord *Edward* his eldest sonne, yet could not that woorthy Prince euer finde meanes or opportunity to visit this kingdome in person. For, from the time he was able to beare armes, he serued continually against the Barons, by whom he was taken prisoner at the battell of *Lewes*. And when that rebellion was appeased, he made a iourney to the Holy Land (an employment which in those dayes diverted all Christian Princes from performing any great actions in *Europe*) frō whence hee was returned, when the Crowne of England was descende vupon him.

Edward I.

THIS King *Edward* the first, who was a Prince adorned with all vertues, did in the mannaging of his affayres, shew himselfe a right good husband; who being Owner of a Lordship ill husbanded, doth first enclose & manure his demeasnes neere his principall house, before he doth improue his wasts afarre off. Therefore, he began first to establish the Commonwealth of England, by making many excellent Lawes, and instituting the forme of publique Iustice, which remaineth to this day. Next, hee fullie subdued and reduced the Dominion of Wales; then by his power and authoritie hee setled the kingdome of *Scotland*; and lastly, he sent a royall armie into

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Gascoigne, to recouer the Duchy of *Aquitaine.* These foure great actions, did take vp all the raign of this Prince. And therefore, we find not in any Record, that this King transmitted any forces into Ireland; but on the other side, wee finde it recorded both in the Annalles, and in the Pipe-Rolles of this kingdom, that three seuerall armies were raised of the Kings subiectes in Ireland, and transported one into *Scotland;* another into *Wales;* and the third into *Gascoigne;* and that seuerall aydes were leuied heere, for the setting forth of those armies. *(Archiv. in Castro Dublin. Annalles Hiberniæ in Camdē.)*

Edward 2.

THE sonne and successor of this excellent Prince, was *Edward* the second, who much against his will sent one smal armie into Ireland; not with the purpose to finish the Conquest, but to guarde the person of his Minion, *Piers Gaueston,* who being bannished out of England, was made Lieutenant of *Ireland,* that so his exile might seem more honourable.

He was no sooner arriued heere, but he made a iourny into the Mountaines of *Dublin;* brake and subdued the Rebels there; built New-Castle in the *Birnes* Country, and repaired *Castlekeuin;* and after passed vp into *Mounster* and *Thomond,* performing euerie where great seruice, with much Vertue and valour.[1] But the King, who could not liue without him, reuokt him within lesse then a yeare. After which time, the inuasion of the *Scots,* and rebellion of the Barons, did not onely

[1] Annales Hiberniæ in Camden. Archiv. in Castro Dublin.

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disable this King to bee a Conqueror, but depriued him both of his kingdome and life. And when the Scottish Nation had ouerrun all this land vnder the conduct of *Edward le Bruce* (who stiled himselfe King of *Ireland*) England was not then able to send either men or mony to saue this Kingdome. Onely *Roger de Mortimer* then Iustice of Ireland, arriued at *Youghall, cum 38milite,* saith Friar *Cliun* in his Annales.[1]

But *Bremingham, Verdon, Stapleton,* & some other priuat Gentlemen, rose out with the Commons of *Meth* and *Vriell,* and at *Fagher* neere *Dondalke,* a fatall place to the enemies of the Crowne of England, ouerthrew a potent armie of them. *Et sic* (saith the red Booke of the Exchequer, wherein the victory was briefley recorded) *per manus communis populi & dextram dei, deliberatur populus dei a seruitute machinata & præcogitata.* (*Rubr. libr. Scac. Dublin.*)

Edward 3.

In the time of King *Edward* the third, the impediments of the Conquest of Ireland are so notorious, as I shal not neede to expresse them; to wit, the warre which the King had with the Realmes of *Scotland* and of *Fraunce;* but especially the Warres of *Fraunce,* which were almost continuall for the space of fortie yeares. And indeede, *France* was a fairer mark to shoot at, then Ireland, & could better reward the Conqueror. Besides, it was an inheritance newly descended vpon the King; and therefore he had great reason to bend all his power, and spend all

[1] Manuscript of Frier Cliun.

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his time and treasure, in the recouery thereof. And this is the true cause why *Edward* the third sent no armie into Ireland, till the 36 yeare of his raigne, when the Lorde *Lionell* brought ouer a Regiment of 1500 men, as is before expressed; which that wise and warlicke Prince did not transmit as a competent power, to make a full conquest, but as an honorable retinue for his soone; and withall, to enable him to recouer some part of his Earldome of *Vlster*, which was then ouerrun with the Irish. But on the other part, though the English Colonies were much degenerate in this kings time, and had lost a great part of their possessions, yet lying at the siedge of *Callis*, hee sent for a supply of men out of Ireland, which wer transported vnder the conduct of the Earle of *Kildare*, and *Fulco de la Freyn*, in the yeare 1347. (*Annales Hiberniæ in Camden.*)

Richard 2. And now are we come again to the time of King *Richard* the second; who for the first tenne yeares of his raigne was a Minor, and much disquieted with popular Commotions; and after that, was more trobled with the factions that arose betweene his Minions, & the Princes of the bloud. But at last he tooke a resolution to finish the Conquest of this Realm. And to that end he made two Royall voyages hither. Vpon the first, he was deluded by the faigned submissions of the Irish; but vpon the latter, when he was fully bent to prosecute the warre with effect, he was diuerted & drawn from hence by the return of the Duke of *Lancaster* into England, and the general defection of the whole realme.

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As for *Henry* the fourth, he beeing an Intruder
Henrie 4. vpon the Crowne of England, was hindered from all forraigne actions, by sundry Conspiracies and Rebellions at home, moued by the house of *Northumberland* in the North; by the Dukes of *Surrey* & *Exeter* in the South; and by *Owen Glendour* in Wales; so as he spent his short raigne in establishing and setling himselfe in the quiet possession of England, and had neyther leisure nor opportunity to vndertake the final conquest of Ireland. Much lesse could King Henry the fift
Henry 5. perfourme that worke: for in the second yeare of his raigne, he transported an armie into *France*, for the recouery of that kingdome, and drewe ouer to the siedge of *Harflew*, the Priour of *Kilmaineham*, with 1500 Irish. In which great action this victorious Prince spent the rest of his life. *(Annales Hiberniæ in Camden.)*

And after his death, the two Noble Princes his
Henrie 6. Brothers, the Duke of *Bedford* and *Glocester*, who during the minority of King *Henry* the sixte, had the Government of the Kingdomes of *England* and *France*, did employ all their Counsels and endeuours to perfect the Conquest of *France*; the greater part whereof being gained by *Henry* the fift, & retained by the Duke of *Bedford*, was againe lost by K. *Henrie* the sixt; a manifest argument of his disability to finish the Conquest of this Land. But when the ciuill Warre betweene the two Houses was kindled, the Kings of *England*, were so farre from reducing al the Irish vnder their Obedience, as they drew out of Ireland to strengthen their parties, al the Nobility and Gentry descended of

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English race: which gaue opportunitie to the Irishy to inuade the Lands of the English Colonies and did hazard the losse of the whole kingdom. *(Hollingshead in Hen.* 6.) For, though the Duke of *Yorke* did, while he liued in *Ireland,* carrie himselfe respectiuely towards all the Nobility, to win the generall loue of all, bearing equall fauour to the *Giraldines* and the *Butlers* (as appeared at the Christning of *George* Duke of *Clarence,* who was borne in the Castle of *Dublin,* where he made both the Earle of *Kildare,* and the Earle of *Ormond* his Gossips:) And hauing occasion diuers times to passe into *England*; hee left the sword with *Kildare* at one time, and with *Ormond* at another: & when he lost his life at *Wakefield,* there were slaine with him diuers of both these families. Yet afterwards, those two Noble houses of *Ireland,* did seuerally follow the two Royall Houses of *England;* the *Giraldines* adhering to the house of *Yorke,* and the *Butlers* to the house of *Lancaster.* Whereby it came to passe, that not onely the principall Gentlemen of both these Surnames, but all their friendes and dependants did passe into *England,* leauing their Lands and possessions to be ouer-run by the Irish. These impediments, or rather impossibilities of finishing the Conquest of *Ireland,* did continue till the Warres of *Lancaster* and *Yorke* were ended: which was about the 12 yeare of King *Edward* the fourth.[1]

Thus hitherto the Kings of *England* were hindred from finishing this Conquest by great and apparant impediments: *Henrie* the second, by the rebellion of his sonnes: King *Iohn, Henrie* the third, and

[1] Manuscript of Baron Finglas.

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Edward the second, by the Barons warres: *Edward* the first by his warres in *Wales* and *Scotland*: *Edward* the third, and *Henry* the fift, by the warres of *France*: *Richard* the second, *Henry* the fourth, *Henry* the sixt, and *Edward* the fourth, by domestick contention for the Crowne of England itselfe.

Edward 4. But the fire of the ciuill warre being vtterly quenched, and K. *Edward* the fourth setled in the peaceable of the Crowne of England, what did hinder that warlicke Prince from reducing of *Ireland* also? First, the whole Realme of *England* was miserably wasted, depopulated and impouerished by the late ciuil dissentions; yet as soon as it had recouered itselfe with a little peace and rest, this King raised an Army and reuiued the Title of *Fraunce* againe: howbeit, this Army was no sooner transmitted and brought into the fielde, but the two Kings also were brought to an interview. Whereupon, partly by the faire and white promises of *Lewes* the 11. and partly by the corruption of some of King *Edwards* Minions, the english forces were broken and dismissed, and King *Edward* returned intoEngland, where shortly after finding himselfe deluded and abused by the French, he dyed with melancholy, and vexation of spirit.

Richard 3. I omit to speake of *Richard* the Vsurper, who neuer got the quiet possession of *England*, but was cast out by *Henry* the seauenth, within two yeares and a halfe after his Vsurpation.

Henrie 7. And for King *Henry* the seauenth himselfe, thogh he made that happy vnion of

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the two houses, yet for more then half the space of his raign, there were walking Spirites of the house of *Yorke*, aswell in *Ireland* as in *England*, which he could not coniure downe, without expence of some bloud and Treasure. But in his later times, he did wholly studye to improue the Reuennues of the Crowne in both Kingdomes; with an intent to prouide meanes for some great action which he intēded: which doubtlesse, if hee had liued, would rather haue improued a iourny into *Fraunce* then into *Ireland*, because in the eyes of all men, it was a fayrer enterprize.

Henrie 8. THEREFORE King *Henry* the eight, in the beginning of his raign, made a Voyage Royall into *France;* wherein he spent the greatest part of that treasure, which his Father had frugally reserued; perhaps for the like purpose. In the latter end of his raign, he made the like iourney, being enricht with the Reuennewes of the Abbey Lands. But in the middle time between these two attemptes, the great alteration which hee made in the State ecclesiasticall, caused him to stand vpon his guard at home; the Pope hauing solicited al the Princes of Christendom to reuenge his quarrell in that behalf. And thus was King *Henry* the eight detained and diuerted from the absolute reducing of the kingdom of *Ireland.*

K. Edward 6 and Qu. Marie. LASTLY, the infancie of King *Edward* the sixt, and the Couerture of Qu. *Mary* (which are both *Non ābilities* in the Lawe) did in fact disable them to accomplish the Conquest of Ireland.

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So as now this great worke did remaine to be performed by Queen ELIZABETH; who though shee were diuerted by suppressing the open rebellion in the North; by preuenting diuers secret Conspiracies against her person; by giuing ayds to the *French*, and States of the Low-Countries; by maintaining a Nauall warre with *Spaine* for many yeares together: yet the sundry rebellions, ioyned with forraign inuasions vpon this Island, whereby it was in danger to be vtterly lost, and to bee possessed by the enemies of the Crowne of *England*, did quicken her Maiesties care for the preseruation thereof; and to that end, from time to time during her raigne, she sent ouer such supplies of men and treasure, as did suppresse the Rebels, and repell the inuaders. Howbeit, before the transmitting of the last great army, the forces sent ouer by Queen *Elizabeth*, were not of sufficient power to break and subdue all the Irishry, and to reduce and reforme the whole Kingdome; but when the generall defection came, which came not without a special prouidence for the final good of that kingdome (though the second causes thereof, were the faint prosecution of the warre against *Tyrone;* the practises of Priests and Iesuites, and the expectation of the ayds frō *Spaine.*) Then the extreame perill of loosing the Kingdome: the dishonor and danger that might thereby growe to the Crowne of *England;* together with a iust disdaine conceiued by that great-minded Queene, that so wicked and vngratefull a Rebell should preuayle against *Her*, who had euer been victorious against all her enemies, did moue, and almost enforce her to send ouer that mighty army: and did withall enflame

Queen Elizabeth.

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the hearts of the Subiects of *England*, chearefully to contribute towardes the maintaining thereof, a Million of sterling poundes at least: which was done with a purpose only to *Saue*, and not to *Gaine* a kingdom; To keep and retaine that *Soueraignetie* which the Crowne of *England* had in *Ireland* (such as it was) and not to recouer a more absolute Dominion. "But, as it falleth out many "times, that when a house is on fire, the Owner "to saue it from burning, pulleth it downe to the "ground; but that pulling downe, doeth giue "occasion of building it vp againe in a better "forme:" So, these last warres, which to saue the Kingdome did vtterly breake and distroy this people, produced a better effect then was at first expected. For, *euery Rebellion, when it is supprest, dooth make the subiect weaker, and the Prince stronger.* So, this general reuolt when it was ouercom, did produce a generall Obedience and Reformation of al the Irishrie, which euer before had beene disobedient and vnreformed; and thereupon ensued the finall and full conquest of *Ireland*.

And this much may suffice to bee spoken, touching the defectes in the martiall affayres and the *weake and faint prosecution of the warre;* and of the seuerall *Impediments* or *imployments*, which did hinder or diuert euery King of *England* successiuely, from reducing *Ireland* to their absolute subiection.

2 The defects in the ciuill policy and gouernment.

It now remaineth, that wee shew *the defects of the Ciuil Pollicy and Gouernment*, which gaue no lesse impediment to the perfection of this Conquest.

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1. The Lawes of England were not giuē to the meere Irish.

THE first of that kinde, doeth consist in this: *That the Crown of England did not from the beginning giue Lawes to the Irishry;* whereas to giue Lawes to a conquered people, is the principall marke and effect of a perfect Conquest. For, albeit King *Henrie* the second, before his returne out of Ireland, held a Counsell or Parliament at *Lissemore; Vbi Leges Angliæ ab omnibus sunt gratanter receptæ, et Iuratoria Cautione præstita confirmatæ,* as *Matth. Paris* writeth.[1]

And though King *Iohn* in the 12 yeare of his raigne, did establish the English Lawes and Customes heere, and placed Sheriffes and other Ministers to rule and gouerne the people according to the Law of *England:* and to that end, *Ipse duxit secum viros discretos et legis peritos, quorum communi consilio statuit et præcepit leges Anglicanas teneri in Hibernia, &c.* as wee finde it recorded among the Patent Rolles in the Tower. 11 *Hen.* 3, *m.* 3. (*Matth. Paris Histor. major fol.* 220 *b.*) Though likewise, King *Henrie* the third did graunt and transmit the like Charter of liberties to his subiects of Ireland, as himselfe and his Father had graunted to the Subiects of *England,* as appeareth by another Recorde in the Tower, 1 *Hen.* 3., *Pat. m.* 13. And afterwards, by a speciall Writ, did commaund the Lord Iustice of Ireland, *Quod convocatis Archiepiscopis, Episcopis, Comitibus, Baronibus, &c. Coram eis legi faceret Chartam Regis Iohannis; quam ipse legi fecit et iurari à Magnatibus Hiberniæ, de legibus et Constitutionibus Angliæ obseruandis, et quod leges illas teneant et*

11 Hen. 3. pat. m. 3.

[1] Matth. Paris Histor. maior. fol. 121.

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obseruent. 12 *Hen.* 3, *Claus. m.* 8. And after that againe, the same King by Letters Patents vnder the great seale of England, did confirme the establishment of the English Lawes made by King *Iohn* in this forme; *Quia pro Communi vtilitate terræ Hiberniæ, ac vnitate terrarum, de Communi Consilio prouisum sit, quod omnes leges et consuetudines quæ in regno Anglæ tenentur, in Hibernia teneantur, et eadem terra eiusdem legibus subiaceat, ac per easdem regatur, sicut Iohannes Rex, cum illuc esset, Statuit et firmiter mandauit: ideo volumus quod omnia breuia de Communi Iure, quæ currunt in Anglia, similiter currant Hibernia, sub nouo sigillo nostro, &c. Teste meip. apud Woodstocke, &c.* (30 H. 3, pat. m. 20.) Which confirmation is found among the Patent Rolles in the Tower, *Anno* 30., *Hen.* 3. Notwithstanding, it is euident by all the Records of this Kingdome, that onely the English Colonies, and some few *Septs* of the Irishry, which were enfranchised by special Charters, wer admitted to the benefit and protection of the Lawes of England; and that the Irish generally, were held and reputed *Aliens,* or rather enemies to the Crowne of *England:* insomuch, as they were not only disabled to bring anie actions, but they were so farre out of the protection of the Lawe, as it was often adiudged no fellony to kill a meere Irish-man in the time of peace.

The meere Irish not admitted to haue the benefit of the Lawes of England.

That the meere Irish were reputed *Aliens,* appeareth by sundrie Records; wherein Iudgement is demanded, if they shall be answered in Actions brought by them; and likewise, by the Charters of Deniza-

The meere Irish reputed Aliens.

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tion, which in all Ages were purchased by them.

In the common Plea-Rolles of 28. *Edward* the third (which are yet preserued in *Breminghams* Tower) this case is adiudged. *Simon Neal* brought an action of trespasse against *William Newlagh* for breaking his Close in *Claudalkin*, in the County of *Dublin;* the Defendant doth plead, that the plaintiffe is *Hibernicus et non de Quinque sanguinibus;* and demandeth iudgement, if he shall be answered. *(Archiv. in Castro Dublin.)* The Plaintiffe replieth; *Quod ipse est de quinque sanguinibus; (viz.) De les Oneiles de Vlton, qui per Concessionem progenitorū Domini Regis; Libertatibus Anglicis gaudere debent et vtunter, et pro liberis hominibus reputantur.* The Defendant reioyneth; that the Plaintiffe is not of the *Oneales* of *Vlster, Nec de quinq.; sanguinibus.* And thereupon they are at yssue. Which being found for the Plaintiffe, he had Iudgement to recouer his dammages against the Defendant. By this Record it appeareth that fiue principal blouds, or Septs of the Irishry, were by speciall grace enfranchised and enabled to take benefit of the Lawes of England; And that the Nation of *O Neales* in *Vlster,* was one of the fiue. *(Archiv. in Castro Dublin.)* And in the like case, 3 of *Edward* the second, amongst the Plea-Rolles in *Breminghams* Tower: All the 5 Septs or blouds, *Qui gaudeant lege Anglicana quoad breuia portanda,* are expressed, namely, *Oneil de Vltonia; O Molaghlin de Midia; O Connoghor de Connacia; O Brien de Thotmonia; et Mac Murrogh de Lagenia:* And yet I finde, that *O Neale* himselfe long after, (viz.) in 20 *Ed.* 4 vpon his marriage with a daughter of the house of *Kildare* (to satisfie the friends of the Lady,)

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was made denizen by a special Act of Parliament. 20 *Ed.* 4. *C.* 8.

Againe, in the 29 of *Ed.* I. before the Iustices in *Eire* at *Drogheda, Thomas de Botteler* broght an action of *Detinue* against *Robert de Almain,* for certaine goods. The Defendant pleadeth, *Quod non tenetur ei inde respondere, eo quod est Hibernicus, et non de libero sanguine. Et prædictus Thomas dicit, quod Anglicus est, et hoc petitit quod inquiratur per patriam, Ideo fiat inde Iurat, &c. Iurat dicunt super Sacrament' suum, quod prædict' Thomas Anglicus est, ideo consideratum est quod recuperet, &c. (Archiv. in Castro Dublin.)*

These two Records among many other, do sufficiently shewe, that the Irish were disabled to bring any Actions at the common Lawe. Touching their denizations, they were common in euerie Kinges raigne, since *Henrie* the second, and were neuer out of vse, till his Maiesty that now is, came to the Crowne. Among the Pleas of the Crown, 4 of *Edw.* 2. we finde a confirmation made by *Edw.* I. of a Charter of Denization granted by *Henrie* the second, to certain *Oostmen,* or Easterlings who were Inhabitants of *Waterford* long before *Hen.* 2. attempted the conquest of *Ireland. Edwardus dei gratia, &c. Iustitiario suo Hiberniæ Salutem: Quia per Inspectionem Chartæ Dom. Hen. Reg. filij Imperatricis quondam Dom. Hiberniæ proaui nostri nobis Constat, quod Ostmanni de Waterford legem Anglicorum in Hibernia habere, et secundum ipsam legem Iudicari et deduci debent: vobis mandamus quod Gillicrist Mac Gilmurrij, Willielmum et Iohannem Mac Gilmurrij et alios Ostmannos de ciuitate et Comitatu Waterford, qui de predictis Ostmannis prædict. Dom. Henr. proaui nostri origi-*

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nem duxerunt, legem Anglicorum in portibus illis iuxta tenorem Chartæ prædict. habere, et eos secundum ipsam legem (quantū in nobis est, deduci faciatis) donec aliud de Consilio nostro inde duxerimus ordinand. In cuius rei, &c. Teste meipso apud Acton Burnell. 5. Octobris anno regni nostri vndecimo. (Archiv. in Castro Dublin.)

Againe, among the Patent Rolles, of 1. *Ed.* the fourth, remaining in the Chancery heere, we finde a Patent of Denization graunted, the 13. of *Edward* the first; in these wordes: *Edwardus Dei gratia, Rex Angliæ, Dom. Hiberniæ, Dux Aquitaniæ, &c. Omnibus Balliuis et fidelibus suis in Hibernia, Salutem: Volentes Christophero filio Donaldi Hibernico gratiam facere specialem concedimus pro nobis et hæredibus nostris, quod idem Christopherus hanc habeat libertatem,* (viz.) *Quod ipse de cætero in Hibernia vtatur legibus Anglicanis, et prohibemus ne quisquam contra ha concessionē nostram dictum Christopherū vexet in aliquo vel perturbet. In cuius rei Testimonium, &c. Teste meipso apud Westm.* 27. *die Iunij, anno regni nostri* 13. *(Archiv. in Castro Dublin.)*

In the same Roll, wee finde another Charter of Denization, graunted in the first of *Edw.* 4, in a more larger and beneficiall forme. *Edw. Dei gratiaq. &c. Omnibus, Balliuis, &c. Salutem. Sciatis quod nos volentes Willielmum O Bolgir capellanum de Hibernica Natione existentem, fauore prosequi gratioso, de gratia nostra speciali, &c. Concessimus eidem Willielmo, quod ipse liberi sit Status, et liberæ conditionis, et ab omni seruitute Hibernicâ liber et quietus, et quod ipse legibus Anglicanis in omnibus et per omnia vti possit et gaudere, eodem modo, quo homines, Anglici infra*

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dictam terram eas habent, et ijs gaudent et vtuntur, quodque ipse respondeat, et respondeatur, in quibuscumque Curijs nostris: ac omnimod. terras, tenementa, redditus, et seruitia perquirere possit sibi et hæredibus suis imperpetuum, &c. (*Archiv. in Castro Dublin.*)

If I should Collect out of the Records, all the Charters of this kind, I should make a Volume thereof; but these may suffice to shew, That the meere Irish were not reputed free subiects; nor admitted to the benefit of the Lawes of *England*, vntil they had purchased Charters of Denization.

That the meer Irish were reputed enimies to the crowne.

Lastly, the meere Irish were not onely accompted *Aliens* but *Enemies;* and altogither out of the protection of the Law; so as it was no capitall offence to kill them; and this is manifest by many Records. At a *Gaol*-delivery at *Waterford*, before *Iohn Wogan*, Lord Iustice of Ireland, the 4. of *Edw.* the second, wee finde it recorded among the pleas of the Crown of that yeare, (*Archiv. in Castro Dublin.*) *Quod Robertus le Wayleys rectatus de morte Iohannis filij Iuor Mac Gillemory felonice per ipsum interfecti, &c. Venit et bene cognouit quod prædictum Iohannem interfecit: dicit tamen quod per eius interfectionem feloniam committere non potuit, quia dicit, quod prædictus Iohannes fuit purus Hibernicus, et non de libero sanguine, &c. Et cum Dominus dicti Iohannis (cuius Hibernicus idem Iohannes fuit) die quo interfectus fuit, solutionem pro ipso Iohanne Hibernico suo sic interfecto petere voluerit, ipse Robertus paratus erit ad respondend' de solutione prædict. prout Iustitia suadebit. Et super hoc venit quidam Iohannes le Poer, et dicit pro Domino Rege, quod prædict. Iohannes filius Iuor*

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Mac Gillemory, et antecessores sui de cognomine prædict à tempore quo Dominus Henricus filius Imperatricis, quondam Dominus Hiberniæ, Tritavus Domini Regis nunc, fuit in Hibernia, legem Anglicorum in Hibernia vsque ad hunc diem habere, et secundum ipsam legem Iudicari et deduci debent. And so pleaded the Charter of Denization graunted to the *Oostmen* recited before: All which appeareth at large in the saide Record: Wherein we may note, that the killing of an Irish man, was not punnished by our Lawe, as Man-slaughter, which is fellony and capitall, (for our Law did neither protect his life, nor reuenge his death) but by a Fine or pecuniary punishment, which is called an *Ericke*, according to the *Brehon*, or Irish Law.

Againe, at a *Gaol*-delivery before the same Lord Iustice at *Limericke*, in the Roll of the same year, we find, that *Willielmus filius Rogeri rectatus de morte Rogeri de Cauteton felonice per ipsum interfecti, venit et dicit, quod feloniam per interfectionem prædictā cōmittere non potuit, quia dicit quod prædict. Rogerus Hibernic. est, et nō de libero sanguine; dicit etiā quod prædict. Rogerus fuit de cognomine de Ohederiscal et non de cognomine de Cautetons, et de hoc ponit se super patriam, &c. Et Iurati dicunt super Sacram. suum quod prædictus Rogerus Hibernicus fuit et de cognomine de Ohederiscall et pro Hibernico habebatur tota vita sua. Ideo prædict. Wiliellmus quoad feloniam prædict. quietus. Sed quia prædictus Regerus Ohederiscall fuit Hibernicus Domini Regis, prædict. Willielmus recommittatur Gaolæ, quosque plegios inuenerit de quinque marcis soluendis Domino Regi pro solutione prædicti Hibernici. (Archiv. in Castro Dublin.)*

But on the other side, if the Iurie had found,

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that the party slaine had beene of English race and Nation, it had bin adiudged fellony; as appeareth by a Record of 29. of *Edward* the first, in the Crowne-Office heere. *Coram Waltero Lenfant et socijs suis Iustitiarijs Itinerantibus apud Drogheda in Comitatu Louth. Iohannes Laurens indictat. de morte Galfridi Douedal venit et non dedicit mortem prædictam: sed dicit quod prædict. Galfridus fuit Hibernicus, et non de libero sanguine, et de bono et malo ponit se super patriam, &c. Et Iurat. dicunt super Sacram. suum quod prædict. Galfridus Anglicus fuit, et ideo prædict. Iohannes culpabilis est de morte Galfridi prædict. Ideo suspend. Catalla* 13 *s. unde Hugo de Clinton Vicecom. respondet.* (*Archiv. in Castro Dublin.*)

Hence it is, that in all the Parliament Rolles which are extant from the fortieth year of *Edward* the thirde, when the Statutes of *Kilkenny* were enacted, till the raigne of King *Henry* the eight, we finde the degenerat and disobedient English, called *Rebelles;* but the Irish which were not in the Kings peace, are called Enemies. *Statute Kilkenny, c.* 1. 10 and 11; 11 *Hen.* 4, *c.* 24; 10 *Hen.* 6. *c.* 1. 18; 18 *Hen.* 6. *c.* 4; 5 *Edw.* 4, *c.* 6; 10 *Hen.* 7. *c.* 17. (*Archiv. in Castro. Dublin.*) All these Statutes speak of *English* Rebels, and Irish Enemies; as if the Irish had neuer bin in condition of Subiectes, but alwaies out of the protection of the Law; and were indeede in worse case then *Aliens* of any forren Realme that was in amity with the Crowne of England. For, by diuers heavie pænall Lawes, the English were forbidden to marry, to foster, to mak Gossippes with the Irish; or to haue anie Trade, or commerce in their Markets or Fayres; nay, there was a Law made no

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longer since then the 28. yeare of *Henrie* the eight, that the English should not marry with any person of Irish blood, though he had gotten a Charter of Denization, vnlesse he had done both homage and fealty to the King in the Chancery, and were also bound by Recognisaunce with sureties, to continue a loyall subiect. Whereby it is manifest, that such as had the Gouernment of *Ireland* vnder the Crowne of *England*, did intend to make a perpetuall separation and enmity betweene the English and the Irish; pretending (no doubt) that the English should in the end roote out the Irish: which the English not being able to do, did cause a perpetuall Warre betweene the nations; which continued foure hundered and odde yeares, and would haue lasted to the Worlds end; if in the end of Queene *Elizabeths* raigne, the Irishry had not beene broken and conquered by the *Sword*. And since the beginning of his Maiesties raigne, had not bin protected and gouverned by the *Law*.

Stat. de Kilkenny, c. 2 et 3. 10. Hen. 6. c. 1. 28 Hen. 8, c. 18.

But perhaps the Irishry in former times did wilfully refuse to be subiect to the Lawes of England, and would not be partakers of the benefit thereof, though the Crowne of *England* did desire it; and therefore, they were reputed Aliens, Outlawes, and enemies. Assuredly, the contrarie doth appeare, aswel by the Charters of Denization purchased by the Irish in all ages, as by a petition preferred by them to the King, *Anno* 2. *Edward* the third; desiring, that an Act might passe in Ireland, whereby

The Irish did desire to be admitted to the benefit and protection of the English Lawes, but could not obtaine it. 2 *Ed.* 3. *claus.* 17.

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all the Irishrie might be inabled to vse and inioy the Lawes of *England*, without purchasing of particular Denizations. Vpon which petition, the King directed a speciall Writ to the Lorde Iustice; which is found amongst the Close-Rolles in the Tower of *London*, in this forme; *Rex dilecto et fideli suo Iohannis Darcile Nepieu Iustic. suo Hiberniæ, Salutem. Ex parte quorundam hominum de Hibernia nobis extitit supplicatum, vt per Statutum inde faciendum concedere velimus, quod omnes Hibernici qui voluerint, legibus vtantur Anglicanis: ita quod necesse non habeant super hoc Chartas alienas à nobis impetrare: nos igitur Certiorari volentes si sine alieno præiudicio præmissis annuere valeamus, vobis mandamus quod voluntatem magnatum terr. illius in proximo Parliamento nostro ibidem tenendo super hoc cum diligentia perscrutari facias: et de eo quod inde inueneritis vna cum Consilio et aduisamento nobis certificetis, &c.* Whereby I collect, that the great Lordes of Ireland had informed the King that the Irishry might not be naturalized, without damage and preiudice either to themselves, or to the Crowne.

But I am well assured, that the Irishry did desire to be admitted to the benefit of the Law, not onely in this petition, exhibited to King *Edward* the third; but by all their submissions made to King *Richard* the second, and to the Lord *Thomas* of *Lancaster* before the warres of the two Houses; and afterwards to the Lord *Leonard Gray*, and Sir *Anthony Saint-Leger*, when K. *Henry* the eight began to reforme this kingdome. In particular, the *Birnes* of the Mountaines, in the 34 of *Henrie* the eight, desire their Countrey might bee made Shire-ground,

The Counsell Booke of Ireland. 34 *Hen.* 8.

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and called the County of *Wicklow:* And in the 23 of *Henry* the eight, *O Donnell* doth couenant with Sir *William Skeffington, Quod si Dominus Rex velit reformare Hiberniam,* (whereof it should seeme hee made some doubt) that hee and his people would gladly bee gouerned by the Lawes of England. Onely that vngrateful Traitour *Tirone,* though hee had no colour or shadowe of Title to that great lordship, but only by grant from the Crowne, and by the Law of England (for by the Irish Law he had beene ranked with the meanest of his Sept) yet in one of his Copitulations with the State, hee required that no Sheriffe might haue iurisdiction within *Tirone;* and consequently, that the Lawes of England might not be executed there. Which request, was neuer before made by *O Neale,* or any other Lorde of the Irishry, when they submitted themselues: but contrariewise they were humble sutors to haue the benefit and protection of the English Lawes.

What mischief did grow by not Communicating the English Lawes to the Irish.

THIS then I note as a great defect in the Ciuill policy of this kingdom, in that for the space of 350 yeares at least after the Conquest first attempted, the English lawes were not communicated to the Irish, nor the benefit and protection therof allowed vnto them, though they earnestly desired and sought the same. For, as long as they were out of the protection of the Lawe; so as euery Englishman might oppresse, spoyle, and kill them without controulment, howe was it possible they shoulde bee other then Out-lawes and Enemies to the Crown of England? If the King woulde not admit them to the condition of Subiects, how

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could they learn to acknowledge and obey him as their Soueraigne? When they might not conuerse or Commerce with any Ciuill men, nor enter into any Towne or Citty without perrill of their Lives; whither should they flye but into the Woods and Mountaines, and there liue in a wild and barbarous maner? If the English Magistrates would not rule them by the Law which doth punish Treason, and Murder, and Theft with death; but leaue them to be ruled by their owne Lords and Lawes, why shoulde they not embrace their own *Brehon* Lawe, which punnisheth no offence but with a Fine or *Ericke*? If the Irish bee not permitted to purchase estates of Freeholds or Inheritance, which might discend to their Children, according to the course of our Common Lawe, must they not continue their custome of *Tanistrie?* which makes all their possessions vncertaine, and brings Confusion, Barbarisme, and Inciuility? In a word, if the English woulde neither in peace Gouerne them by the Law, nor could in War root them out by the sword; must they not needes be prickes in their eyes, and thornes in their sides, till the worlds end? and so the Conquest never be brought to perfection.

What good would haue ensued if the meere Irish had bin gouerned by the English lawes.

BVT on the other side: If from the beginning, the Lawes of England had beene established and the *Brehon* or Irish Law vtterly abolished, aswell in the Irish Countries, as the English Colonies; If there had been no difference made betweene the Nations in point of Iustice and protection, but al had been gouerned by one Equall, Iust, and Honourable Lawe, as *Dido* speaketh in

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Virgill ; Tros, Tyriusue mihi nullo discrime habetur. If vpon the first submission made by the Irish Lordes to King *Henry* the second ; *Quem in Regem et Dominum receperunt,* saith *Matth. Paris ;* or vpon the second submission made to King *Iohn,* when, *Plusquam vigenti Reguli maximo timore perterriti homagium ei et fidelitatem fecerunt,* as the same Author writeth : or vppon the third general submission made to King *Richard* the second ; when they did not only do homage and fealty, but bound themselues by Indentures and Oaths (as is before expressed) to becom and continue loyall subiects to the crown of *England ;* If any of these three Kings, who came each of them twice in person intothis kingdome, had vppon these submissions of the Irishry, receiued them all, both Lords and Tenants, into their mediate protection, deuided their seuerall Countries into Counties ; made Sherriffes, Coroners, and Wardens of the peace therein : sent Iustices Itinerants halfe yearely into euerie part of the Kingdome, aswell to punish Malefactors, as to heare and determine causes betweene party and party, according to the course of the Lawes of *England ;* taken surrenders of their Lands and territories, and graunted estates vnto them, to holde by English Tenures ; graunted them Markets, Fayres, and other Franchises, and erected Corporate Townes among them ; all which, hath bin performed since his Maiesty came to the Crowne,) assuredly, the Irish Countries had long since beene reformed, and reduced to Peace, Plenty, and Ciuility, which are the effect of Lawes and good Gouernment : they hadde builded Houses, planted Orchards and Gardens : erected Towne-shippes, and made pro-

Three generall submissions of the Irish.

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nision for their posterities; there had beene a perfect vnion betwixt the Nations, and consequently, a perfect Conquest of *Ireland*. For the Conquest is neuer perfect, till the war be at an end; and the war is not at an end till there be peace and vnity; and there can neuer be vnity and concord in any one Kingdom, but where there is one King, one Allegiance, and one Law;

The English Lawes were executed only in the English Colonies.

TRUE it is, that King *Iohn* made xii. shires in *Leinster* and *Mounster*: namely, *Dublin*, *Kildare*, *Meth*, *Vriel*, *Catherlogh*, *Kilkenny*, *Wexford*, *Waterford*, *Corke*, *Limeric*, *Kerrie*, and *Tipperary*. Yet these Counties did stretch no farther then the Landes of the English Colonies did extend. In them only, were the English Lawes published and put in Execution; and in them only did the Itinerant Iudges make their circuits and visitations of Iustice, and not in the countries possessed by the Irishry which contained two third partes of the Kingdome at least. And therefore King *Edward* the first, before the court of Parliament was established in Ireland, did transmitt the Statutes of *England* in this forme: (*Archiv. in Castro. Dublin*): *Dominus Rex mandauit Breue suum in hæc verba: Edwardus Dei gratia, Rex Angliæ, Dominus Hiberniæ, &c. Cancellario suo Hiberniæ Salutem. Quædam statuta per nos de assensu Prælatorū, Comitū, Baronū et Communitat. regni nostri nuper apud Lincolne; et quædam alia statuta postmodum apud Eborum facta, quæ in dicta terra nostra Hiberniæ ad Communem utilitatē populi nostri ejusdem terræ obseruari volumus, vobis mittimus sub sigillo nostro, mandantes quod statuta*

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illa in dicta Cancellaria nostra Custodiri, ac in rotulis eiusdem Cancellariæ irrotulari, et ad singulas placeas nostras in terra nostra Hiberniæ, et singulos Comitatus eiusdem terræ mitti faciatis ministris nostris placearum illarum, et Vice-comitibus dictorum Comitatuū: mandantes, quod statuta illa coram ipsis publicari et ea in omnibus et singulis Articulis suis obseruari firmiter faciatis. Teste meipso apud Nottingham, &c. By which Writt, and by all the Pipe Rolles of that time, it is manifest, that the Lawes of *England* were published and put in execution onely in the Counties, which were then made and limited, and not in the Irish Countries, which were neglected and left wilde; and haue but of late yeares bin deuided in one and twenty Counties more.

Againe, true it is, that by the Statute of *Kilkenny*, enacted in this kingdome, in the fortith yeare of King *Edward* the thirde, the *Brehon* Law was condemned and abolished, and the vse and practice thereof made High Treason. But this Lawe extended to the English onely, and not to the Irish: For the Lawe is penned in this forme: Item, *Forasmuch as the diuersitie of Gouernment by diuers Lawes in one Land, doth make diuersity of ligeance and debates between the people, It is accorded and established, that heereafter no Englishman haue debate with another Englisnman, but according to the course of the Common Law; And that no Englishman be ruled in the definition of their debates by the March-Law, or the Brehon Law, which by reason ought not to be named a Law, but an euill Custome; but that they be ruled as right is, by the common Lawe of the Land, as the Lieges of our Soueraigne LORD the King; And if any do to the contrary, and*

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thereof be attainted, and he be taken and imprisoned and iudged as a Traitor: And that heereafter there be no diuersity of legiance betweene the English borne in Ireland and the English borne in England, but that all be called and reputed, English, and the Lieges of our Souereigne Lord the KING, &c. (*Statut. de Kilkenny. c.* 4.) This Law, was made onely to reforme the degenerat English, but there was no care taken for the reformation of the meer Irish; no ordinance, no prouision made for the abolishing of their barbarous Customes and manners. Insomuch as the Law then made for Apparell, and riding in Saddles, after the English fashion, is penal only to English men, and not to the Irish. But the *Romaine* State, which conquered so many Nations both barbarous and Ciuill; and therefore knewe by experience, the best and readiest way of making a perfect and absolute conquest, refused not to communicate their Lawes to the rude and barbarous people whom they had Conquered; neither did they put them out of their protection, after they had once submitted themselves. But contrary-wise, it is said of *Iulius Cæsar; Qua, vicit, victos protegit ille, manu.* And againe, of another Emperor:

The Romains did communicate their Lawes to the nations which they conquered.

Fecisti patriam diuersis gentibus vnam,
Profuit invitis te dominante capi;
Dumq. offers victis proprij consortia Iuris,
Vrbem fecisti, quod priùs orbis erat.

And of *Rome* itself;

Hæc est, in gremium victos quæ sola recepit,
Humanumque genus communi nomine fouit,

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Matris, non dominæ, ritu; Civesque vocavit,
Quos domuit, nexuque pio longinqua reuinxit.

Tacitus in vita Agricolæ. Therefore (as *Tacitus* writeth) *Iulius Agricola* the *Romaine* Generall in *Brittany* vsed this pollicy to make a perfect Conquest of our Ancestours, the ancient *Brittaines;* They were (sayth he) rude, and dispersed; and therefore prone upon euery occasion to make warre, but to induce them by pleasure to quietnesse and rest, he exhorted them in priuate, and gaue them helpes in common, to builde Temples, Houses, and places of publique resort. The Noblemens sonnes, hee tooke and instructed in the Liberall Sciences, &c. preferring the wits of the *Brittaines,* before the Students of *France;* as being now curious toattaine the Eloquence of the Romaine Language, whereas they lately reiected that speech. After that, the *Roman* Attire grew to be in account, and the *Gowne* to be in vse among them; and so by little and little they proceeded to curiosity and delicacies in Buildings, and furniture of Houshold; in Bathes, and exquisit Banquets; and so beeing come to the heighth of Ciuility, they were thereby brought to an absolute subiection.

William the Conquerour gouerned both the Normans and the English vnder one Law.

LIKEWISE, our Norman Conqueror, though he oppressed the English Nobility very sore, and gaue away to his seruitors, the Lands and possessions of such as did oppose his first inuasion, though he caused all his Actes of Counsel to be published in *French;* and some legall proceedings and pleadings to bee framed and vsed in the same tongue, as a marke and badge of a conquest; yet

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he gouerned All, both English and Normans, by one and the same Law; which was the auncient common Law of England, long before the Conquest. Neither did he denie any Englishman (that submitted himselfe vnto him:) The benefit of that Law though it were against a Norman of the best ranke, and in greatest fauour (as appeared in the notable Controuersie betweene *Warren* the *Norman*, and *Sherburne* of *Sherburne* Castle in *Norfolke;* for the Conquerour had giuen that Castle to *Warren;* yet when the Inheritors thereof, had alledged before the King, that he neuer bore Armes against him; that hee was his subiect, aswell as the other, and that he did inherit and hold his Landes by the rules of that Law which the King had established among all his Subiects; The King gaue iudgement against *Warren*, and commanded that *Sherborn* shold hold his land in peace. By this meane, him-selfe obtained a peaceable possession of the kingdom within few yeares; whereas, if he had cast all the English out of his protection, and held them as Aliens and Enemies to the Crowne, the Normans (perhaps) might haue spent as much time in the Conquest of *England*, as the English haue spent in the Conquest of *Ireland*. (*Camden in Northfolke.*)

King *Edw.* 1 did communicate the English Lawes to the Welshmen.

THE like prudent course hath bin observed in reducing of Wales; which was performed partly by King *Edward* the first, and altogether finished by King *Henry* the eight. For, we finde by the Statute of *Rutland*, made the 12 of *Edward* the first, when the Welshmen had submitted themselues, *De alto et Basso*, to that King, he did not

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reiect and cast them off, as Out-lawes and Enemies, but caused their Lawes and Customes to be examined, which were in many points agreeable to the Irish or *Brehon* Law. *Quibus diligenter auditis et plenius intellectis, quasdam illarū* (saieth the King in that Ordinance) *Consilio procerum dileuimus; quasdam permissimus; quasdam correximus; ac etiā quasdam alias adjiciendas et faciend. decreuimus;* and so established a Commonwealth among them, according to the forme of the English Gouernement. After this, by reason of the sundry insurrections of the Barons; the Warres in *France;* and the dissention betweene the two houses of *Yorke* and *Lancaster*, the State of England neglected or omitted the execution of this Statute of *Rutland;* so as a great part of Wales grew wilde and barbarous again. And therefore King *Henry* the eight, by the Statutes of the 27 and 32 of his raign, did reuive and recontinue that Noble worke begun by King *Edward* the first; and brought it indeed to full perfection; For he vnited the Dominion of Wales to the Crown of England, and deuided it into Shires, and erected in euery Shire, one Borough, as in England; and enabled them to send Knights and Burgesses to the Parliament; established a Court of Presidency; and ordained that Iustices of Assise, and *Gaol-deliuerie*, should make their halfe yearly Circuits there, as in England; made all the Lawes and Statutes of England in force there; among other Welsh Customes, abolished that of *Gauel-kinde:* whereby the Heyres-Female were utterlie excluded, and the Bastards did inherit, aswell as the Legitimate, which is the very Irish *Gaus'-kinde*. By means whereof, that entire Country in a short time was

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securely setled in peace and Obedience, and hath attained to that Ciuility of Manners, and plentie of all things, as now we finde it not inferiour to the best parts of *England*.

I will therefore knit vp this point with these conclusions ; First, that the Kings of *England*, which in former Ages attempted the Conquest of *Ireland*, being ill aduised and counselled by the great men heere, did not vpon the submissions of the Irish, communicate their Lawes vnto them, nor admit them to the state and condition of Free subiectes : Secondly, that for the space of 200 yeares at least, after the first arriual of *Henry* the second in *Ireland*, the Irish would gladly haue embraced the the Lawes of England, and did earnestly desire the benefite and protection thereof ; which being denied them, did of necessitie cause a continuall bordering warre between the English and the Irish. And lastly, if according to the examples before recited they had reduced as well the Irish Countries as the English Colonies, vnder one forme of ciuil gouernment, (as now they are), the Meres and Bounds of the Marches and Borders, had beene long since worne out and forgotten, for it is not fit, (as *Cambrensis* writeth,—that a King of an Islande should haue any Marches and Borders, but the foure Seas) both nations had beene incorporated and vnited ; *Ireland* had beene entirely Conquered, Planted, and Improoued ; and returned a rich Reuennew to the Crowne of *England*.[1]

THE next error in the ciuill pollicy which hindered the perfection of the Conquest of *Ireland*, did consist in the *Distribution* of the Landes and

[1] Giraldus Cambrensis lib 2 de Hiberniâ expugnata.

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2. The Landes conquered from the Irish were not well distributed.

possessions which were woone and conquered from the Irish. For, the *Scopes of Land* which were graunted to the first Aduenturers, *were too Large;* and the *Liberties* and *Royalties*, which they obtained therein, *were too great for Subiects;* though it stood with reason that they should be rewarded liberally out of the fruites of their owne Labours, since they did *Militare propriis stupendiis*, and receiued no pay from the Crowne of England. Notwithstanding there ensued diuers inconveniences, that gaue great impediment to the Conquest.

The proportions of Land graunted to the first Adventurers wer too large.

FIRST, the Earle *Strongbow* was entituled to the whole Kingdome of *Leinster;* partly by Inuasion, and partly by Marriage; albeit hee surrendered the same entirely to King *Henrie* the second his Souer-aigne[1]; for that with his license hee came ouer; and with the Ayde of his Subiects, hee had gayned that great inheritance; yet did the K. re-grant backe againe to him and his heyres all that Prouince, reseruing onely the Citty of *Dublin*, and the Cantreds next adioyning, with the Maritime Townes, and principall Forts and Castles. Next, the same King granted to *Robert Fitz-Stephen*, and *Miles Cogan*, the whole Kingdome of *Corke*, from *Lismore* to the Sea. To *Philip le Bruce* he gaue the whole Kingdome of *Limericke*, with the Dona-

[1] Giraldus Cambrensis lib. 2 de Hiberniâ expugnata. In Archiv. Tur. 5. Edw. 3. Escheat numero 104. 2 Johannis Chart. m. 15 et m. 38. 6 Johannis Chart. m. 1. 7 Johannis. Chart. m. 12 et n. 109. 6 Ed. 1 Chart. m. 19. 18 Ed. 1, m. 29. Girald. Cam. lib. 2. de Hiberniâ expug.

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tion and Byshop-rickes and Abbeyes (except the Citie, and one Cantred of Land adioyning.) To Sir *Hugh de Lacy*, all *Meth*. To Sir *Iohn De Courcy* all *Vlster:* to *William Burke Fitz-Adelm*, the greatest part of *Couaght*. In like manner, Sir *Thomas de Clare*, obtained a graunt of all *Thomond;* and *Otho de Grandison* of all *Tipperary;* and *Robert le Poer*, of the territory of *Waterford*, (the Citty itselfe, and the Cantred of the Oastmen only excepted.) And thus was all *Ireland* Cantonized among tenne persons of the English Nation; And thogh they had not gained the possession of one third part of the whole Kingdom, yet in Title they were Owners and Lords of all, so as nothing was left to bee graunted to the Natiues. And therefore we do not find in any Record or storie for the space of three hundred yeares, after these Adventurers first arriued in Ireland, that any Irish Lorde obtained a grant of his Country from the Crowne, but onely the King of *Thomond*, who had a grant but during King *Henry* the third his Minority: (6 *H.* 3. *Chart. m.* 2.) and *Roderick O Connor*, King of *Conaght*, to whom King *Henry* the second, before this distribution made, did graunt (as is before declared.) *Ut sit Rex sub eo;* and moreouer, *Ut teneat terram suam Conactiæ ita bene et in pace, sicut tenuit antequam Dominus Rex intravit Hiberniam.*[1] And whose successour, in the 24 of *Henrie* the third,[2] when the *Bourkes* had made a strong plantation there, and had wel-ny

All Ireland distributed to ten persons of the English Nation.

[1] Houeden in H. 2 fol. 302. Archiv. turr. 17 Iohannis Chart. m. 3.

[2] 6 Johannis Claus. m. 15.

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expelled him out of his territory, he came ouer into *England*, (as *Matth. Paris* writeth)[1] and made complaint to King *Henrie* the third of this inuasion made by the *Bourkes* vppon his Land, insisting vppon the grauntes of King *Henrie* the second, and King *Iohn;* and affirming, that he had duely paide an yearly tribute of fiue thousand marks for his Kingdome. Whereupon, the King called vnto him the Lord *Maurice Fitz-Girald*, who was then Lorde Iustice of Ireland, and President in the Court; and commanded him that he should roote out that vniust plantation, which *Hubert* Earle of *Kent* had in the time of his greatnesse, planted in those parts; and wrote withall to the great men of *Ireland* to remooue the *Bourkes*, and to establish the King of *Conaght* in the quiet possession of his Kingdome. Howbeit I doe not read that the King of Englands commandment or direction in this behalfe, was ever put in execution. For, the troth is; *Richard de Burgo* had obtained a graunt of all *Conaght*, after the death of the King of *Conaght*, then liuing. (3 H*enrie* 3.) For which he gaue a thousand pounde, as the Record in the Tower reciteth, the third of *Henry* 3. claus. 2. And besides, our great English Lords coulde not endure that any Kings should raigne in Ireland, but themselues; nay, they could hardly endure that the Crown of England it selfe, should haue any Iurisdiction or power ouer them. For many of these Lordes, to whome our Kings had granted these petty kingdomes, did by Vertue and colour of these Grants, claime and exercise *Iura Regalia* within their Territories; insomuch, as there

The Liberties granted to the first aduenturers were too great.

8 Counties-Palatines in Ireland at one time.

[1] Matth. Paris in Henry the third.

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were no lesse thē eight Counties-Palatines in Ireland, at one time.

For *William Marshall*, Earle of *Pembroke*, who married the daughter and heyre of *Strongbow*, being Lord of all Leynster, had Royall Iurisdiction throughout al that Prouince. (*Annales Hiberniæ in Camden.*) This great Lord had fiue sonnes, and fiue daughters; euery of his sonnes enioyed that Seigniory successiuely, and yet al died without Issue. Then this great Lordship was broken and diuided, & pertition made betweene the fiue daughters, who were married into the Noblest Houses of England. The Countie of *Catherlogh* was allotted to the eldest; *Wexford* to the second; *Kilkenny* to the third; *Kildare* to the fourth; the greatest part of *Leix*, nowe called the Queenes County, to the fift: In euery of these portions, the Coparceners seuerally exercised the same Iurisdiction Royall, which the Earle Marshall and his Sonnes had vsed in the whole Prouince. (*In Archiv. Tur.* 11 *Edw.* 3 . *Escheat n.* 28.) Whereby it came to passe that there were fiue County Palatines erected in Leinster. Then had the Lord of *Meth* the same Royall libertie in all that Territory; the Earle of *Vlster* in all that Prouince; and the Lorde of *Desmond* and *Kerry* within that County. All these appeare vppon Record, and were all as ancient as the time of King Iohn; onely the liberty of Tipperarie, which is the onely Liberty that remaineth at this day, was granted to *Iames Butler* the first Earle of *Ormond*, in the third yeare of King *Edward* the third. (*Archiv. in Castro Dublin: Archiv. Turr. pat.* 3. *E.* 3. *m.* 28.)

5 Counties Palatines in Leinster.

These absolute Palatines made Barons & Knights,

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did exercise high Iustice in all points within their Territories, erected Courts for Criminall and ciuill Causes, and for their owne Reuennewes; in the same forme, as the Kings Courts wer established at Dublin (*Archiv. in Castro Dublin*); made their own Iudges, Seneshals, Sheriffes, Corroners, and Escheators; so as the Kinges Writt did not run in those Counties (which took vp more then two partes of the English Colonies) but onely in the Church Lands lying within the same, which were called the *Crosse*, wherein the K. made a Sheriffe: And so, in each of these Counties Palatines, there were two Sheriffes; one, of the *Libertie;* & another of the *Crosse:* As in *Meth* we find a Sheriffe of the Liberty, and a Sheriffe of the Crosse: And so in *Vlster*, & so in *Wexford:* And so at this day, the Earle of *Ormond* maketh a Sheriffe of the Liberty, and the King a Sheriffe of the Crosse of *Tipperary*. Heereby it is manifest, how much the Kinges Iurisdiction was restrained, and the power of these Lords enlarged by these High Priuiledges. And it doth further appear, by one Article among others, preferred to King *Edward* the thirde, touching the reformation of the state of Ireland, which we finde in the Tower, in the words; *Item les francheses grantes in Irelād, que sont Roialles, telles come Duresme & Cestre, vous oustont cybien de les profits, Come de graunde partie de Obeisance des persons enfrancheses; & en quescū franchese est Chancellerie, Chequer & Conusans de pleas, cybien de la Coronne, come autres communes, et grantont auxi Charters de pardon; et sont souent per ley et reasonable cause seisses envostre main, a grand profit de vous; et leigerment restitues per maundemēt hors de Englet-*

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tere, a damage, &c. Vnto which Article the K. made answer: *Le Roy voet que les francheses que sont et serront per iuste cause prises en sa main, ne soent my restitues, avant que le Roy soit certifie de la cause de la prise de icelles.* 26 *Ed* 3. *Claus. m.* 1, Again, these great Vndertakers, were not tied to any forme of plantation, but all was left to their discretion and pleasure. And although they builded Castles, and made Freeholders, yet were there no tenures or seruices reserued to the Crowne; but the Lords drew all the respect and dependancie of the common people, vnto *Themselues.* Nowe let vs see what inconueniences did arise by these large and ample Grants of Landes and Liberties, to the first Aduenturers in the Conquest.

The inconueniences which grew by the large graunts of Lands and Liberties.

ASSVREDLY by these Grants of whole Prouinces and pettie Kingdomes, those few English Lordes pretended to be proprieters of all the Land, so as there was no possibility left of setling the Natiues in their possessions, and by consequence the Conquest becam impossible, without the vtter extirpation of all the Irish; which these English Lords were not able to doe, nor perhaps willing, if they had bin able. Notwithstanding, because they did still hope to become Lordes of those Lands which were possessed by the Irish, whereunto they pretended Title by their large Grants; and because they did feare, that if the Irish were receiued into the Kings protection, and made Liege-men and Free-subiectes, the state of *England* woulde establish them in their possessions by Graunts from the

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Crowne; reduce their Countries into Counties, ennoble some of them; and enfranchise all, and make them amesueable to the Lawe, which woulde haue abridged and cut off a great part of that greatnesse which they had promised vnto themselues: they perswaded the King of England, that it was vnfit to Communicate the Lawes of England vnto them; that it was the best pollicie to holde them as Aliens and Enemies, and to prosecute them with a continuall warre. Heereby they obtained another Royal prerogative and power: which was, to make Warre and peace at their pleasure in euery part of the Kingdome. Which gaue them an absolute Commaund ouer the Bodies, Landes, and Goods of the English subiectes heere. And besides, the Irish inhabiting the Lands fully Conquered and reduced, being in condition of slaues and Villaines, did render a greater profit and Reuennew, then if they had bin made the Kings Free-subiects.

The English Lords in Ireland made war and peace at their pleasure.

And for these two causes last expressed, they were not willing to root out all the Irishry. We may not therefore meruaile, that when King *Edward* the third, vpon the petition of the Irish (as is before remembred) was desirous to be certified, *De voluntate magnatum suorum in proximo Parliamento in Hibernia tenend. si sine alieno præiudicio cōcedere possit, quod per statut. inde fact. Hibernici vtantur legibus Anglicanis, siue chartis Regiis inde Impetrandis,* that there was neuer any Statute made to that effect. For the troth is, that those great *Euglish* Lordes did to the vttermost of their power, crosse and withstand the enfranchisement of the Irish, for the causes before

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expressed; Wherein I must stil cleare and acquit the Crown and State of England, of negligence or ill pollicy, and lay the fault vppon the Pride, Couetousnesse, & ill Counsell of the English planted heer, which in all former ages haue bin the chiefe impediments of the final Conquest of *Ireland*.

The war and dissention of the English Lordes one with another.

AGAINE, those large scopes of Land, and great Liberties, with the absolute power to make warre and peace, did raise the English Lordes to that height of Pride and Ambition, as that they could not endure one another, but grew to a mortall warre and dissention among themselues; as appeareth by all the Records and Stories of this Kingdome. First, in the yeare, 1204, the *Lacies* of *Meth*, made Warre vpon Sir *Iohn Courcy*; who hauing taken him by treachery, sent him prisoner into *England*. In the yeare, 1210, King *Iohn* comming ouer in person, expelled the *Lacies* out of the Kingdome, for their tiranny and oppression of the English: howbeit, vppon payment of great Fines, they were afterwards restored. *(Annales Hiberniæ in Camden.)* In the yeare, 1228, that family beeing risen to a greater heighth (for *Hugh de Lacy* the yonger, was created Earle of *Vlster*, after the death of *Courcy* without yssue) there arose dissention and warre betweene that house, and *William Marshall* Earle of *Leinster*; whereby all *Meth* was destroyed and layd wast. In the yeare, 1264, Sir *Walter Bourke* hauing married the Daughter & heire of *Lacy*, whereby he was Earle of *Vlster* in right of his Wife, had mortall debate with *Maurice Fitz-Morice*, the *Geraldine*,

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for certaine Lands in *Conaght*. So as all *Ireland* was full of Wars between the *Bourkes* and the *Geraldines* (say our Annales.) Wherein *Maurice Fitz-Morice* grew so insolent, as that vppon a meeting at *Thistledermot*, he tooke the Lord Iustice himselfe, Sir *Richard Capell*, prisoner, with diuers Lords of *Mounster* beeing then in his Company. In the yeare, 1288, *Richard Bourke*, Earle of *Vlster*, (commonly called the *Red* Earle) pretending title to the lordship of *Meth*, made warre vpon Sir *Theobold de Verdun*, and besiedged him in the Castle of *Athlone*. Againe, in the yeare, 1292. *Iohn Fitz-Thomas* the *Geraldine*, hauing by contention with the Lorde *Vesci*, gotten a goodly inheritance in *Kildare*, grew to that heighth of immagination (saith the Story) as he fell into difference with diuers great Noblemen; and among many others, with *Richard* the Red Earle, whom he took prisoner, and detained him in Castle *Ley*; and by that dissention, the English on the one side, and the Irish on the other, did wast and destroy all the Countrey. *(Annales Hiberniæ in Camden.)* [1]

After, in the yeare, 1311, the same Red Earle (comming to besiege *Bonratty* in *Thomoud*, which was then held by Sir *Richard de Clare*, as his inheritance) was againe taken prisoner: & all his Army (consisting for the most part of English) ouerthrown and cut in pieces by *Sir Richard de Clare*.

And after this againe, in the yeare, 1327, most of the great Houses were banded one against another, (viz:) The *Geraldines*, *Butlers*, and *Bremingham*s,

[1] Annales Iohannis Clynne. Manuscript.

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on the one side, and the *Bourkes* & *Poers* on the other. The ground of the quarrell beeing none other, but that the Lord *Arnold Poer*, had called the Earle of *Kildare*, Rimer: But this quarrell was prosecuted with such malice and violence, as the Counties of *Waterford* and *Kilkenny* were destroied with fire and sword, till a Parliament was called of purpose, to quiet this dissention.

Shortly after, the Lord *Iohn Bremingham*, who was not long before made Earle of *Louth*, for that notable seruice which he performed vpon the Scots, betweene *Dundalke* and the *Faher*, was so extreamly enuied by the *Gernons*, *Verdons*, and others of the ancient Colony, planted in the County of *Louth*, as that in the yeare, 1329, they did most wickedly betray & murder that Earl, with diuers principall Gentlemen of his name and Family; vsing the same speech that the Rebellious Iewes are saide to vse in the Gospell:

Nolumnus hunc regnare super nos.

After this, the *Geraldines* and the *Butlers* hauing becom the most potent families in the Kingdome (for the great Lordshippe of *Leinster* was diuided among Coparceners, whose heires for the most part liued in England; and the Earledome of *Vlster*, with the lordship of *Meth*, by the match of *Lionell* Duke of *Clarence*, at last discended vpon the Crowne) had almost a continuall warre one with another. In the time of King *Henry* the sixt, (saith Baron *Finglas* in his Discourse of the Decay of *Ireland*,) in a fight betweene the Earles of *Ormond* and *Desmond*, almost all the Townesmen of *Kilkenny* were slaine.[1]

[1] Baron Finglas. Manuscript.

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And as they followed contrary parties during the warres of *Yorke* and *Lancaster*, so after that ciuil dissention ended in England, these Houses in Ireland continued their opposition and feud still, euen till the time of King *Henry* the eight; when by the Marriage of *Margaret Fitz-Girald* to the Earl of *Ossory*, the houses of *Kildare* and *Ormond* were reconciled, and haue continued in amity euer since.

Thus these great Estates & Royalties graunted to the English Lords in Ireland, begate Pride; and Pride, begat Contention among themselus, which broght forth diuers mischiefs, that did not only disable the English to finish the Conquest of all Ireland, but did endaunger the losse of what was already gained; And of Conquerors, made them slaues to that Nation which they did intend to Conquer. For, whensoeuer one English Lorde had vanquished another, the Irish waited and tooke the opportunity, & fell vpon that Country which had receiued the blow; and so daily recouered some part of the lands, which wer possessed by the English Colonies.

Besides, the English Lords to strengthen their parties, did ally themselues with the Irish, and drewe them in, to dwell among them; gaue their Children to be fostered by them; and hauing no other meanes to pay or reward thē, suffred them to take Coigne and Liuery vppon the English Free-holders; which Oppression was so intollerable, as that the better sort were enforced to quit their freeholds and fly into England; & neuer returned, though many Lawes were made in both Realmes, to remaunde them backe againe: and the rest which

Stat. 10 *Heary* 7, *c.* 4. *Rot. Parliam. in Castro Dublin.*

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remained, became degenerat and meer Irish, as is before declared. And the English Lords finding the Irish exactions to be more profitable then the English Rents and seruices; & louing the Irish tyranny, which was tyed to no rules of *Law* or *Honor*, better then a iust and lawfull Seigniory, did reiect and cast off the English Law and Gouernment, receiued the Irish Lawes and Customes, tooke Irish Surnames, as *Mac William*, *Mac Pheris*, *Mac Yoris*, refused to come to the Parliamentes which were summoned by the King of Englands Authority, and scorned to obey those English Knights which were sent to commaund and gouerne this Kingdome;[1] Namely, Sir *Richard Capel*, Sir *Iohn Morris*, Sir *John Darcie*, and Sir *Raphe Vfford*. And when Sir *Anthony Lucie*, a man of great Authoritie in the time of King *Edward* the thirde, was sent ouer to reforme the notorious abuses of this Kingdom, the King doubting that he shold not be obeyed, directed a speciall Writt or Mandate to the Earle of *Vlster*, and the rest of the Nobility to assist him. (*Archiv. Turr.* 5 *Edward* 3. *claus. m.* 4.) And afterwards, the same King (vpon good aduise and counsell) resumed those excessiue Grants of Lands and Liberties in Ireland, by a special ordinance made in England, which remaineth of Record in the Tower, in this form: *Quia plures excessiuæ donationes terrarum et libertatum in Hibernia ad subdolam machinationem petentium factæ sunt, &c. Rex delusorias huiusmodo machinationes volens elidere, de consilio peritorum sibi assistentium, omnes donationes Terrarum et liber-*

[1] Baron Finglas. Manuscript.

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tatum prædict. duxit reuocandas, quousque de meritis donatariorū et causis ac qualitatibus donationū melius fuerit informat et ideo mandatum est Iusticiario Hiberniæ quod seisiri faciat, &c. (Archiv. Turr. 15 *Edward* 3. *claus. m.* 4.*)* Howbeit, ther followed vpon this resumptiō, such a diuision & faction between the *English* of birth, & the English of bloud and race, as they summoned & held seuerall Parliaments apart one from the other. Whereuppon, there had risen a general war betwixt them, to the vtter extinguishing of the English Name and Nation in *Ireland*, if the Earle of *Desmond*, who was head of the faction against the English of birth, had not beene sent into England, and detained there for a time;[1] yet afterwardes, these liberties beeing restored by direction out of England, the 26 of *Edw.* 3. complaint was made to the King of the easie restitution; whereunto the King made answere, as is before expressed: so as we may conclude this point with that which we finde in the Annalles, published by Maister *Camden: Hibernici debellati & consumpti fuissent, nisi seditio Anglicorum impedivisset.* Whereunto I may adde this note, that though some are of opinion, that Grants of extraordinary Honours and Liberties made by a King to his subiects, do no more diminish his greatnesse, then when one Torch lighteth another; for it hath no lesse light, then it had before, *Quis vetat apposito lumen de lumine sumi?* Yet many times, inconueniences doe arise thereuppon: and those Princes haue held vp their Soueraignty best, which

The first Adventurers obtained these

[1] Annales Hiberniæ in Camden.

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liberal grants, because the Kings of England did not prosecute the warre at their owne charge.

haue beene sparing in those Graunts. And truely as these Graunts of little Kingdomes, and great Royalties, to a few priuate persons, did produce the mischiefes spoken of before: So the true cause of the making of these Grants, did proceede from this; That the Kings of England beeing otherwise employed and diuerted, did not make the Conquest of *Ireland, their own worke,* and vndertake it not royally at their owne charge; but as it was first begun by perticular Aduenturers, so they left the prosecution thereof, to them, & other voluntaries, who came to seeke their fortunes in Ireland; wherein if they could preuayle, they thought that in reason & honor they could doe no lesse, then make them proprietors of such scopes of land as they could conquer, people, & plant at their owne charge, reseruing only the Soueraigne Lordshippe to the Crowne of England. *But if the Lyon had gone to hunt himselfe, the shares of the Inferiour Beastes had not beene so great:* If the inuasion had been made by an army transmitted, furnished, & supplyed only at the kings charges, & wholy paid with the Kings Treasure, as the Armies of Queene ELIZABETH, and King *Iames* haue been; as the conquest had beene sooner atchiued, so the seruitors had beene contented with lesser proportions.

How the State of Rome rewarded their men of warre.

For, when *Scipio, Pompey, Cæsar,* and other Generals of the *Roman* Armies, as *Subiectes* and *Seruants* of that State, and with the publicke Charge had conquered many Kingdomes & Commonweales, wee finde them rewarded with Honorable Offices and Triumphes at their returne; and not made

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Lords and proprieters of whol Prouinces and Kingdoms which they had subdued to the Empire of Rome. Likewise, when the Duke of *Normandy* had conquered England, which he made his owne work and performed in it his owne person, hee distributed sundry Lordships and Mannors vnto his followers, but gaue not away whole Shires and Countreyes in demesne to any of his seruitors, whom he most desired to aduance. Only, he made *Hugh Lupus* County Palatine of *Chester*, and gaue that Earledome to him and his heyres, to hold the same, *Ita libere ad gladium, sicut Rex tenebat Angliam ad Coronam.* Whereby that Earledome indeed had a royal Iurisdiction, and Seigniory, though the Landes of that Countie in demesne, were possessed for the most part by the auncient Inheritors. (*Camden in Chester.*)

William the Conqueror.

Again, from the time of the Norman Conquest, till the raigne of King Edward the first, many of our English Lords, made warre vpon the Welshmen at their owne charge; the lands which they gained they held to their owne vse, were called *Lords Marchers*, and had Royal Liberties within their Lordshippes. Howbeit, these particular Aduenturers, could neuer make a perfect Conquest of Wales.

Wales distributed to the L. Marchers.

But when King *Edward* the first, came in person with his army thither, kept his residence and Court there; made the reducing of *Wales*, an enterprize of his owne; hee finished that worke in a yeare or two, whereof the Lords *Marchers* had not performed a third part, with their continuall bordering warre, for two hundred years before. And withall we may obserue, that though this

King had nowe the Dominion of Wales in *Iure proprietatis*, as the Statute of *Rutland* affirmeth; which before was subiect vnto him, but in *Iure feodali:* And though he had lost diuers principall Knights & Noblemen in that Warre, yet did he not reward his seruitors with whol Countries or Counties, but with particular Mannors and Lordships: as to *Henrie Lacy* Earle of *Lincolne*, he gave the Lordship of *Denbigh;* and to *Reignold Gray*, the Lordship of *Ruthen*, and so to others. And if the like course had beene vsed in the winning and distributing of the Landes of *Ireland*, that Island had beene fully conquered before the continent of *Wales* had beene reduced. But the troth is, when Priuate men attempt the Conquest of Countries at their own charge, commonly their enterprizes doe perrish without successe: as when in the time of Queene *Elizabeth*, Sir *Thomas Smith* vndertooke to recouer the *Ardes:* and *Chatterton*, to reconquer then *Fues* and *Orier*. The one lost his Sonne; and the other, Himselfe; and both their Aduentures came to nothing. And as for the Crowne of England, it hath had the like fortune in the Conquest of this Land, as some purchasers haue; who desire to buy Land at too easie a Rate: they finde those cheap purchases so full of trouble, as they spende twice as much as the Land is woorth, before they get the quiet possession thereof.

And as the best pollicy was not obserued in the distribution of the Conquered Lands; so as I conceyue, that the first Aduenturers intending to make a full Conquest of the Irish, were deceiued in the Choyse of the *Fittest places for their plantation*. For they sate downe, and erected

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Castles and Habitations in the *Plaines & open Countries;* wher they found most fruitfull and profitable Lands, and turned the Irish into the *Woods & Mountaines:* Which, as they were proper places for Out-lawes and Theeues, so were they their Naturall Castles and Fortifications; thither they draue their preyes and stealths; there they lurkt and lay in waite to doe mischiefe. These fast-places they kept vnknowne, by making the wayes and Entries therevnto impassable; there they kept their Creaghts or Heardes of Cattle, liuing by the Milke of the Cowe, without Husbandry or Tillage; there they encreased and multiplied vnto infinite numbers, by promiscuous generation among themselues; there they made their Assemblies and Conspiracies without discouery: But they discouered the weaknes of the English dwelling in the open plaines; and therevpon made their sallies and retraites with great aduantage. Whereas, on the other side, if the English had builded their Castles and Towns in those places of fastnesse, and had driuen the Irish into the Plaines and open Countries, where they might haue had an eye and obseruation vpon thē, the Irish had beene easily kept in Order, and in short time reclaimed from their wildnesse; there they woulde haue vsed Tillage, dwelt together in Towne-ships, learned Mechanicall Arts & Sciences. The woods had bin wasted with the English Habitations, as they are about the Forts of *Mariborough* and *Phillipston,* which were built in the fastest places in *Leinster,* and the wayes and passages throughout Ireland, would haue beene as cleare and open, as they are in England at this day.

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The English Lords did not reduce the woodes and wasts in Forrests & Parks *Chart. de Forest. c.* 2 *and* 3.

AGAINE, if King *Henry* the second, who is said to be the K. that Conquered this Land, had made Forrests in Ireland, as he did enlarge the Forrests in England (for it appeareth by *Charta de Foresta*, that hee afforrested many woods and wasts, to the Greeuance of the Subiect, which by that Lawe were disafforrested,) or if those English Lordes, amongst whom the whole Kingdome was deuided, had beene good Hunters, and had reduced the Mountaines, Bogges, and woods within the limits of Forrests, Chases, and Parkes; assuredly, the very Forrest Law, and the Law *de Malefactoribus in parcis*, would in time haue driven them into the Plains & Countries inhabited and mannured, and haue made them yeeld vppe their fast places to those wilde Beastes, which were indeede lesse hurtfull and wilde, then they. But it seemeth straunge to me, that in all the Recordes of this Kingdome, I seldome finde any mention made of a Forrest; & neuer of anie Parke or Free-warren; considering the great plenty both of *Vert* and Venison within this Land; and that the cheefe of the Nobility and Gentry are discended of English race; and yet at this day, there is but one parke stored with Deere in al this Kingdom: which is a Parke of the Earle of *Ormonds* neer *Kilkenny*. It is then manifest, by that which is before expressed; that the not communicating of the English lawes to the Irish; the ouer-large Grants of Lands and Liberties to the English; the plantation made by the English in the Plaines and open Countreyes, leauing the Woods and Mountaines to the Irish, were great Defects in the Ciuill policy,

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and hindered the perfection of the Conquest verie much. Howbeit, notwithstanding these Defects and Errours, the English Colonies stood and maintained themselus in a reasonable good estate, as long as they retained their owne auncient Lawes and Customes, according to that of *Ennius: Moribus antiquis res stat. Romana virisque.* But when the ciuil Gouernment grew so weake & so loose, as that the English Lords, would not suffer the English Lawes to be put in execution within their Territories & Seigniories, but in place therof, both they and their people, embraced the Irish Customes: Then the estate of things, *like a Game at Irish,* was so turned about, as the English, which hoped to make a perfect Conquest of the Irish, were by them perfectly and absolutely conquered; because *Victi victoribus leges dedere. A iust punnishment to our Nation, that wold not giue Lawes to the Irish when they might: and therefore nowe the Irish gaue Lawes to them.* Therefore, this Defect and failing of the English Iustice, in the English Colonies; and the in[tro]ducing of the Irish Customes in lieu thereof, was the maine impediment that did arrest and stoppe the course of the Conquest; and was the only meane that enabled the Irishrie to recouer their strength againe.

The English Colonies reiected the English lawes and customes, and embraced the Irish.

For, if we consider the Nature of the Irish Customes, wee shall finde that the people which doth vse them, must of necessitie bee Rebelles to all good Gouernment, destroy the commonwealth wherein they liue, and bring Barbarisme and desolation vpon the richest

The nature of the Irish Customes.

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and most fruitfull Land of the world. For, whereas by the iust and Honourable Law of England, & by the Lawes of all other well-gouerned Kingdomes and Common-weals, Murder, Man-slaughter, Rape. Robbery, and Theft, are punnished with death; By the Irish Custome, or *Brehon* Law, the highest of these offences was punished onely by Fine, which they called an *Ericke*. Therefore, when Sir *William Fitz-williams*, (being Lord Deputy) told *Maguyre* that hee was to send a Sheriffe into *Fermaunagh*, being lately before made a County: your Sheriffe (saide *Maguyre*) shall be welcome to me, but let me knowe his *Ericke*, or *the price of his head* afore hand; that if my people cut it off, I may cut the Ericke vpon the Countrey. As for Oppression, Extortion, & other trespasses, the weaker had neuer anie remedy against the stronger: whereby it came to passe, that no man coulde enioy his Life, his Wife, his Lands or Goodes in safety, if a mightier man then himselfe had an appetite to take the same from him. Wherein they were little better then *Canniballes*, who doe hunt one another; and hee that hath most strength and swiftnes, doth eate and deuoure all his fellowes.

The Irish laws and Customs, differing from the Lawes & Customs of all ciuill Nations. The Irish Law in Criminall causes.

Againe, in England, and all well ordered Common-weales, men haue certaine estates in their Lands & possessions, and their inheritances discend from Father to Son, which doth giue them encouragement to builde, and to plant, and to improoue their Landes, and to make them better for their posterities. But by the Irish Custome of *Tanistry*, the Cheefetanes of euery Countrey,

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The Irish Custome of *Tanistry.*

and the chiefe of euery Sept, had no longer estate then for life in their Cheeferies, the inheritance whereof, did rest in no man. And these Cheeferies, though they had some portions of Lande allotted vnto them, did consist chiefly in cuttings and Cosheries, and other Irish exactions, whereby they did spoyle and impouerish the people at their pleasure. And when their Chieftanes were dead, their sonnes or next heires did not succeede them, but their *Tanistes*, who were Electiue, and purchased their elections by stronge hande; And by the Irish Custome of Gauellkinde, the inferiour Tennanties were partible amongst all the Males of the Sept, both Bastards and Legittimate: And after partition made, if any one of the Sept had died, his portion was not diuided among his Sonnes, but the cheefe of the sept, made a new partition of all the Lands belonging to that Sept, and gaue euerie one his part according to his antiquity.

The Irish Custome of Gauelkinde.

The mischiefs that arise by these two Customes.

THESE two Irish Customes made all their possessions vncertain, being shuffled, and changed, and remoued so often from one to another, by new elections and partitions; which vncertainty of estates, hath bin the true cause of such Desolation & Barbarism in this land, as the like was neuer seen in any Countrey that professed the name of Christ. For, though the Irishry be a Nation of great Antiquity, and wanted neither wit nor valour; and though they had receiued the Christian Faith, aboue 1200 yeares since; and were Louers of Musicke, Poetry, and

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all kinde of learning; and possessed a Land abounding with all thinges necessary for the Ciuill life of man; yet (which is strange to be related) they did neuer builde any houses of Bricke or stone (some few poor Religious Houses excepted) before the raigne of King *Henrie* the second, though they wer Lords of this Island for many hundred yeares before, and since the Conquest attempted by the English: Albeit, when they sawe vs builde Castles vppon their borders, they haue only in imitation of vs, erected some few piles for the Captaines of the Country: yet I dare boldly say, that neuer any perticuler person, eyther before or since, did builde anie stone or bricke house for his priuate Habitation; but such as haue latelie obtained estates, according to the course of the Law of *England*. Neither did any of them in all this time, plant any Gardens or Orchards, Inclose or improue their Lands, liue together in settled Villages or Townes, nor made any prouision for posterity; which being against all common sense and reason, must needes bee imputed to those vnreasonable Customes, which made their estates so vncertain and transitory in their possessions.

For, who would plant or improoue, or build vppon that Land, which a stranger whom he knew not, should possess after his death? For that, (as *Salomon* noteth) is one of the strangest Vanities vnder the Sunne. And this is the true reason why *Vlster*, and all the Irish Countries are found so wast and desolate at this day; and so wold they continue till the worlds end, if these Customes were not abolished by the Law of *England*.

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Againe, that Irish Custom of Gauelkinde, did breede another mischiefe; for thereby, euery man being borne to Land, aswell Bastard, as Legitimate, they al held thēselues to be *Gentlemen*. And though their portions were neuer so small, and themselues neuer so poor (For *Gauelkind must needs in the end make a poore Gentility*,) yet did they scorne to discend to Husbandry or Marchandize, or to learn any Mechanicall Art or Science. And this is the true cause why there were neuer any Corporate Towns erected in the Irish Countries. As for the Maritime Citties and Townes, most certaine it is, that they were built and peopled by the *Ostmen* or *Easterlings*: for the natiues of Ireland neuer perfourmed so good a worke, as to build a City. Besides, these poore Gentlemen were so affected vnto their small portions of Land, as they rather chose to liue at home by Theft, Extortion, aud Coshering, then to seeke any better fortunes abroad: which encreased their *Septs* or *Syrnames* into such numbers, as there are not to bee found in anie Kingdome of *Europe*, so many Gentlemen of one Blood, Familie, and Syrname, as there are of the *O Neales* in *Vlster*; of the *Bourkes*, in *Conaght*; of the *Geraldines*, and *Butlers*, in *Munster* & *Leinster*. And the like may be saide of the Inferiour Bloodes and Families; whereby it came to passe in times of trouble & Dissention, that they made great parties and factions adhering one to another, with much constancie; because they were tyed together, *Vinculo sanguinis*; whereas Rebels and Malefactors which are tyed to their Leaders by no band, either of Dutie or Blood, do more easily breake and fall off one from another. And besides, their

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Coe-habitation in one Countrey or Teritory, gaue them opportunity suddenly to assemble, and Conspire, and rise in multitudes against the Crowne. And euen now, in the time of peace, we finde this inconuenience, that ther can hardly be an indifferent triall had between the King and the Subiect, or between partie and partie, by reason of this generall Kindred and Consanguinity.

The wicked Customes of *Coigne* and *Liuery.*

But the most wicked and mischeeuous Custome of all others, was that of *Coigne* and *Liuery*, often before mentioned; which consisted in taking of *Mansmeate, Horsemeat, & Money* of all the inhabitants of the Country, at the will and pleasure of the soldier, who as the the phrase of Scripture is, *Did eate vp the people as it were Bread:* for that he had no other entertainment. This extortion was originally Irish, for they vsed to lay *Bonaght* vppon their people, and neuer gaue their Soldier any other pay. But when the English had Learned it, they vsed it with more insolency, and made it more intollerable; for this oppression was not temporary, or limited either to place or time; but because there was euery where a continuall warre, either Offensiue, or Defensiue; and euery Lord of a Countrey, and euery Marcher made warre and peace at his pleasure; it became Vniuersall and Perpetuall; and was indeede the most heauy oppression, that euer was vsed in any Christian or Heathen Kingdom. And therefore *Uox Oppressorum,* this crying sinne, did drawe downe as great or greater plagues vppon Ireland, then the oppression of the *Isralites,* did draw vpon the Land of *Egypt.* For the plagues of

The mischiefs that did arise by Coigne & Liuery.

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Egypt, though they were grieuous, were but of a short continuance. But the plagues of *Ireland*, lasted 400 yeares together. This Extortion of Coigne and Liuery, did produce two notorious Effects. First, it made the Land wast; Next, it made the people, ydle. For, when the Husbandman had laboured all the yeare, the soldier in one night, did consume the fruits of all his labour, *Longiq. perit labor irritus anni*. Had hee reason then to mannure the Land for the next yeare? Or rather might he not complaine as the Shepherd in *Virgil:*

The cause of Idlenesse in the Irish.

Impius hæc tam culta noualia miles habebit?
Barbarus has segetes? En quo discordia Ciues
Perduxit miseros? En queis cōsevimus agros?

AND heereupon of necessity came depopulation, banishment, & extirpation of the better sort of subiects; and such as remained became ydle, and lookers on, expecting the euent of those miseries and euill times: So as this extreame Extortion and Oppression, hath beene the true cause of the Idlenesse of this Irish Nation; and that rather the vulgar sort haue chosen to be Beggers in forraigne Countries, then to manure their own fruitful Land at home. Lastly, this Oppression did of force and necessity make the Irish a craftie people: for such as are oppressed and liue in slauery, are euer put to their shifts; *Ingenium malá sæpe mouent;* And therefore, in the old Comedies of *Plautus* & *Terence*, the Bondslaue doth always act the cunning and Craftie part. Besides, all the Common people

Why the Irish are Beggers in forraigne Countreyes. Why the Irish are reputed a crafty people.

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haue a whyning tune or Accent in their speech, as if they did still smart or suffer some oppression. And this Idlenesse, together with feare of iminent mischiefes, which did continually hang ouer their heads, haue bin the cause, that the Irish wer euer the most inquisitiue people after newes, of any nation in the world. As *S. Paule* himselfe made obseruation vpon the people of *Athens;* that they were an ydle people, and did nothing but learne and tell Newes. And because these Newes-Carriers, did by their false intelligence, many times raise troubles and rebellions in this Realme, the Statute of *Kilkenny*, doth punish Newes-tellers (by the name of *Skelaghes*) with Fine and ransome.

Why the Irish are inquisitiue after Newes.

This Extortion of *Coigne* and *Liuery*, was taken for the maintenaunce of their men of warre; but their Irish exactions extorted by the Chieftanes and *Tanists*, by colour of their barbarous Seigniory, were almost as grieuous a burthen as the other; namely, *Cosherings*, which were visitations and progresses made by the Lord and his followers, among his Tenants: wherein he did eate them (as the English Prouerbe is) *Out of House and home. Sessings* of the *Kerne*, of his family, called *Kernety*, of his Horses & Horsboyes; of his Dogges and Dog-boyes, and the like: And lastly, *Cuttings, Tallages*, or *Spendings*, high or low, at his pleasure; all which, made the Lorde an absolute Tyrant, and the Tennant a very slaue and villain; and in one respect more miserable then Bondeslaues. *For commonly the Bondslaue is fed by his Lord, but heere the Lord was fedde by his Bond slaue.*

Cosherings. *Sessings.* *Cuttings.*

Lastly, there were two other Customes proper

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and peculiar to the Irishry, which being the cause of many strong combinations and factions do tend to the vtter ruine of a Commonwealth: The one was *Fostering;* the other *Gossipred;* both which haue euer bin of greater estimation among this people, then with any other Nation in the Christian world. For *Fostering,* I did neuer heare or read, that it was in that vse or reputation in anie other Countrey, Barbarous or Ciuill, as it hath beene, and yet is, in *Ireland:* where they put away al their children to Fosterers: the potent & rich men *Selling;* the meaner sort *Buying,* the alterage of their Children; and the reason is, because in the opinion of this people, *Fostering* hath alwayes beene a stronger alliance then *Bloud;* and the Foster-Children doe loue and are beloued of their foster-fathers and their Sept, more then of their owne naturall Parents and Kindred; and do participate of their meanes more frankely, and do adhere vnto them in all fortunes, with more affection & constancy, And though *Tully* in his Book of Friendship doth obserue, that childrē of Princes being somtimes in cases of necessity for sauing of their liues deliuered to Shepheards to be nourished and bred vp, when they haue bin restored to their great fortunes, haue still retained their loue and affection to their Fosterers, whom for manie yeares they tooke to be their Parents: yet this was a rare case, and few examples are to be found thereof.

But such a generall Custome in a Kingdome, in giuing and taking children to Foster, making such a firme Alliance as it doth in *Ireland,* was neuer seene or heard of, in any other Countrey of the world besides.

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THE like may be said of *Gossipred* or *Compaternitie*, which though by the Cannon Law, it be a spirituall affinity, and a Iuror that was a Gossip to either of the parties, might in former times haue bin challenged, as not indifferent by our Law, yet there was no nation under the Sun, that euer made so Religious accompt thereof as the Irish.

Gossipred.

Now these two Customes, which of themselues are indifferent in other Kingdomes, became exceeding euill and full of mischiefe in this Realm, by reason of the inconueniences which followed thereupon. For, they made (as I said before) strong parties, and factions, wherby the great men were enabled to oppresse their Inferiours, and to oppose their Equals: and their followers were borne out and countenanced in all their lewde and wicked actions: For Fosterers & Gossips by the common Custome of Ireland, were to maintaine one another in all causes lawful, and vnlawfull; which as it is a Combination and Confederacy punishable in all well-gouerned Common-weales, so was it not one of the least causes of the common misery of this Kingdome.

I omit their common repudiation of their Wiues; their promiscuous generation of Children; their neglect of lawfull Matrimony; their vncleannesse in apparell, Diet & Lodging, and their contempt and scorne of all thinges necessary for the Ciuill life of man.

These were the Irish Customes, which the English Colonies did embrace and vse, after they had reiected the Ciuill and Honorable Lawes and Customes of *England*, whereby they became degenerate and metamorphosed

How the English Colonies became degenerate.

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like *Nabuchadnezzar:* who although he had the face of a man, had the heart of a Beast: or like those who had drunke of *Circes* Cuppe, and were turned into very Beasts; and yet tooke such pleasure in their beastly manner of life, as they would not returne to their shape of men againe: Insomuch as within lesse time then the Age of a man, they had no markes or differences left amongst them of that Noble nation, from which they were discended. For, as they did not only forget the English Language, & scorne the vse thereof, but grew to bee ashamed of their very English Names, though they were Noble and of great Antiquity; and tooke Irish *Surnames* and *Nicke-names*. Namely, the two most potent families of the *Bourks* in *Conaght* (after the house of the Red Earle failed of Heyres-males) called their Cheefes, *Mac William Eighter* and *Mac William Oughter*. In the same Prouince, *Bremingham, Baron* of *Athenrie,* called himself *Mac Yoris. Dexecester,* or *De'exon,* was called *Mac Iodan. Mangle* or *de Angulo,* took the name of *Mac Costelo.* Of the Inferior families of the *Bourkes,* one was called *Mac Hubbard,* another *Mac Dauid.* In *Munster,* of the great Families of the *Geraldines* planted there; One was called *Mac Morice* chiefe of the house of *Lixnaw;* and another, *Mac Gibbon* who was also called the *white Knight.* The chiefe of the Baron of *Dunboynes* house, who is a branch of the house of *Ormond,* tooke the Surnames of *Mac Pheris. Condon* of the Countie of *Waterford,* was called *Mac Maioge:* and the Arch-Deacon of the County of *Kilkenny, Mac Odo.* And this they did in contempt and hatred of the English Name and Nation; whereof these degenerate families

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became more mortal enemies, then the meer Irish. And whereas the state and Gouernment being growne weake by their defection, did, to reduce them to Obedience, grant them many protections ond Pardons, *(The cheapnesse whereof, in all ages, hath brought great dishonor and damage to this Commonweal)* they grew so vngratefull and vnnaturall, as in the end they scorned that grace & fauour, because the acceptance thereof, did argue them to be subiects, and they desired rather to bee accounted Enemies, then Rebels to the Crowne of England.

Heereupon was that olde Verse made, which I finde Written in the White Booke of the Exchequer, in a hand as auncient as the time of King *Edward* the third. (*Alb. libr. Scacc. Dublin.*)

By graunting Charters of peas,
To false English withouten les,
This Land shall be mich vndoo.
But Gossipred, and alterage,
And leesing of our Language,
Have mickely holp theretoo.

And therefore, in a close Roll in the Tower, bearing this Title; *Articuli in Hibernia observandi*: we finde these two Articles among others. 1. *Iusticiarius Hiberniæ non concedat pardonationes de morte hominis, nec de Roberiis, seu incendijs, & quod de cætero certificet dominum regem de nominbus petentium.* 2. *Item, Quod nec Iusticiarius nec aliquis Magnas Hiberniæ concedat protectiones alicui contra pacem Regis existent, &c.* (5 *Edw.* 3 *m.* 25.) But now it is fit to looke backe and consider when the old English Colonies became so degenerate; and in what Age they fell away into that

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Irish barbarisme, reiecting the English lawes and Customes. Assuredly, by comparing the ancient Annalles of *Ireland* with the Records remaining heere, & in the Tower of *London*, I do find that this generall defection, fell out in the latter end of the raign of king *Edward* the second, and in the beginning of the raigne of King *Edward* the thirde. And all this great innovation, grewe within the space of thirty years: within the compasse of which time, there fell out diuers mischieuous accidents, whereby the whole kingdome was in a manner lost. For first, *Edward de Bruce* inuaded *Ireland* with the Scottish Army, and preuailed so farre, as that he possessed Maritime parts of *Vlster*, marched vp to the walles of *Dublin*, spoiled the English Pale, passed thorough *Leinster* and *Munster*, as farre as *Limericke*, and was Maister of the field in euery part of the kingdom.

When & how the English Colonies became degenerate.

The Scots ouer-run *Ireland*

This hapned in the tenth yeare of King *Edward* the second, at what time the Crowne of *England* was weaker, & suffred more dishonor in both kingdomes, then it did at any time since the *Norman* Conquest. Then did the State of *England*, send ouer *John de Hotham* to be Treasurer heere, with commission to call the great Lords of Ireland together; and to take of them an Oath of Association, that they should loyally ioyne together in life & death to preserue the right of the King of *England*, and to expell the common enemy. But this Treasurer brought neither men, nor money, to performe this seruice. *(Annales Hiberniæ in Camden.)*

At that time, though *Richard Bourk* Earle of *Vlster* (commonly called the Redde-Earle) were of

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greater power then any other subiect in *Ireland*, yet was he so farre stricken in yeares, as that he was vnable to mannage the martiall affaires, as he had done during all the raigne of King *Edward* the first: hauing bin Generall of the Irish forces, not only in this kingdom, but in the Wars of *Scotland*, *Wales*, and *Gascoigne*. And therefore, *Maurice Fitz-Thomas* of *Desmond*, being then the most actiue Nobleman in this realm, tooke vpon him the chiefe command in this Warre: for the support whereof, the Reuennue of this Lande, was farre too short, and yet no supply of Treasure was sent out of *England*.

Desmond chiefe Commander in the warre against the Scots.

Then was there no mean to maintain the Army, but by Sessing the soldiers vppon the Subiect, as the Irish were wont to impose their *Bonaught*. Whereupon, grewe that wicked Extortion of *Coigne* and *Liuerie* spoken of before, which in short time banished the greatest part of the Free-holders out of the County of *Kerrie*, *Limerick*, *Corke*, and *Waterford*; Into whose possessions, *Desmond* and his Kinsmen, Alies, and Followers, which were then more Irish then English, did enter and appropriate these Lands vnto themselues, *Desmond* himselfe taking what scopes hee best liked for his demesnes in euery Countrey, and reseruing an Irish Seigniory out of the rest. And heere, that I may verifie & maintaine by matter of Record, that which is before deliuered touching the Nature of this wicked Extortion, called *Coigne* and *Liuery*; and the manifolde mischiefes it did produce, I thinke it fit and pertinent to insert the preamble of the Statute of the 10 of *Henry* 7. *c.* 4, not printed, but

When and how the extortion of Coign and Liuery began among the English.

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recorded in Parlament Rols of *Dublin*, in these words: *At the request & supplication of the Commons of this Land of Ireland, that where of long time there hath bin vsed and exacted by the Lords and Gentlemen of this Land, many and diuers damnable customes & vsages, which bin called Coigne, and Liuery, and Pay; that is, Horsemeat, and Mansmeat, for the finding of their Horsemen and Footmen; and ouer that* 4*d. or* 6*d. daily to euery of them to be had and paide of the poore Earth-Tillers, and Tenants, inhabitants of the saide Land, without any thing doing or paying therefore. Besides, manie Murders, Robberies, Rapes, & other manifold extortions & oppressions by the saide Horsemen and Footmen, dayly and nightly committed & done; which bin the principall causes of the desolation & destruction of the said Land, & hath brought the same into Ruine and Decay, so as the most part of the English Free-holders and Tenants of this land bin departed out thereof, some into the Realme of England, and other some to other strange Landes; whereupon the foresaide Lordes and Gentlemen of this Land, haue intruded into the said Free-holders and Tenants inheritances; and the same keepeth and occupieth as their owne inheritances: and setten vnder them in the same Land the Kings Irish Enemies, to the diminishing of Holie Churches Rites, the disherison of the King, & his obedient subiects, and the vtter ruine and desolation of the Land. For reformation whereof, be it enacted, That the King shall receiue a Subsidie of* 26*s.* 8*d. out of every* 120 *acres of arrable land manured, &c.* But to return to *Tho: Fitz-Maurice* of *Desmond;* By this Extortion of *Coigne* and *Liuery*, he suddenly grewe from a meane, to a

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mighty estate; insomuch as the *Baron Finglas* in his discourse of the Decay of *Ireland*, affirmeth; that his ancient inheritance beeing not one thousand markes yearely, he became able to dispend euery way, ten thousand pounds, *per annum*.

These possessions being thus vnlawfully gotten, could not bee maintained by the iust and honorable law of England, which would haue restored the true Owners to their Land againe. And therefore, this Great man found no meanes to continue & vphold his ill-purchased greatnesse, but by reiecting the English Lawe & Gouernment, and assuming in lieu thereof, the barbarous customs of the Irish. And heereupon, followed the defection of those foure shires, containing the greatest part of *Munster*, from the obedience of the Law.

In like manner (saith Baron *Finglas*) the Lord *Tipperary* (perceiuing how well the house of *Desmond* hadde thriued by *Coigne* and *Liuerie*, and other Irish exactions) began to holde the like course in the Counties of *Tipperary* and *Kilkenny*; whereby he got great scopes of Land, specially in *Ormond*; and raised many Irish exactions vpon the English Free-holders there; which made him so potent & absolut among thē, as at that time they knew no other Lawe, then the will of their Lord. Besides, finding, that the Earle of *Desmond* excluded the ordinary Ministers of Iustice, vnder colour of a Royall Liberty, which he claimed in the Counties of *Kerry*, *Corke*, and *Waterford*, by a graunt of King *Edward* the first, (as appeareth in a *Quo warranto*, brought against him, *Anno* 12. *Edw*. 1.) the Record whereof, remaineth in *Breminghams* Tower, among the common Plea-Rolles there.

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This Lord also, in the third of *Edward* the thirde, obtained a Graunt of the like Liberty in the County of *Tipperary*, whereby he got the Lawe into his owne hands, & shut out the Common Law and Iustice of the Realme.

And thus we see, that all *Munster* fell away from the English Lawe and Gouernment, in the end of King *Edward* 2. his raigne; and in the beginning of the raigne of King *Edward* the third. Againe, about the same time, (viz.) in the 20. yeare of King *Edward* the second, when the State of *England* was well-ny ruined by the Rebellion of the Barons, and the Gouernment of Ireland vtterly neglected, there arose in *Leinster*, one of the *Cauanaghes*, named *Donald Mac Art*, who named himselfe *Mac Murrogh*, King of *Leinster*, and possessed himselfe of the Countie of *Catherlogh* and of the greatest part of the County of *Wexford*. And shortly after, *Lisagh O Moore*, called himselfe *O Moore*, took 8. Castles in one Euening, destroyed *Dunamase* the principall house of the L. *Mortimer* in *Leix*, recouered that whole Countrey, *De seruo Dominus, de subiecto princeps effectus*, saith Friar *Clynne* in his Annales.[1]

The rising of *Mac Murrogh* and *O Moore in Leinster*.

The defect and losse of a great part of Leinster.

Besides, the Earle of *Kildare*, imitating his Cousin of *Desmond*, did not omit to make the like vse of Coigne & Liuery in *Kildare*, and the West part of *Meth*, which brought the like barbarisme into those parts. And thus a great part of *Leinster* was lost, and fell away from the Obedience of the Crowne, neere about the time before expressed.

[1] Annales Hiberniæ in Camden. Annales Iohan. Clynne. Manus.

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Againe, in the seauenth yeare of King *Edward* the third, the Lord *William Bourke*, Earle of *Vlster*, and Lorde of *Conaght*, was treacherously murdered by his owne Squires at *Knockefergus*, leauing behinde him. *Vnicam & vnius anni filiam* (saith Friar *Clynne*.)[1] Immediately vpon the murder committed, the Countesse with her yong daughter, fledde into England; so as the Gouernment of that Countrey, was wholly neglected, vntil, that young Ladie being married to *Lionell* Duke of *Clarence*, that Prince cam ouer with an Army, to recouer his wiues inheritance, and to reforme this Kingdom, Anno 36. of *Edward* the third. But in the meane time, what became of that great inheritance both in *Vlster* & *Conaght?* Assuredly, in *Vlster*, the Sept of *Hugh-Boy O Neal*, then possessing *Glaucoukeyn* and *Killeightra* in *Tyrone*, tooke the opportunity; and passing over the *Banne*, did first expell the English out of the Barony of *Tuscard*, which is now called the *Rout;* and likewise, out of the *Glynnes* and other Lands vp as farre as *Knockfergus*, which Countrey or extent of Lande, is at this day called, the lower *Clan Hugh-Boy*.[2] And shortly after that, they came vp into the great *Ardes*, which the Latine writers call, *Altitudines Vltoniæ*, and was then the inheritaunce of the *Sauages;* by whom, they were valiantly resisted for diuers yeares: but at last, for want of Castles and fortifications (for the saying of *Henrie Sauage* mentioned

The Earle of Vlster murdered.

The Earldom of Vlster recouered by the Irish.

[1] Annales Johan. Clynne. Manus.

[2] Abridgement of Salus populi. Manuscript. Baron Finglas, Manuscript.

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in euery Story, is very memorable: That a Castle of *Bones* was better then a Castle of *Stones*) the English were ouer-run by the multitude of the Irishry: So as about the thirtith of K. *Edw.* 3. some few yeares before the arriuall of the Duke of *Clarence*, the *Sauages* were vtterly driuen out of the Great *Ardes*, into a little nooke of land neere the River of *Strangford;* where they now possesse a little Territory, called the little *Ards;* and their greater patrimony tooke the name of the upper *Clan Hugh-Boy*, from the Sept of *Hugh-Boy O Neale* who became Inuaders thereof. (*Annales Hiberniæ in Camden.*)

The defection of Conaght.

For *Conaght*, some yonger branches of the Family of the *Bourkes*, being planted there by the Red-Earle & his Ancestors, seeing their Chiefe to bee cutt off, and dead without Heire-male, and no man left to gouern or protect that Prouince, intruded presently into all the Earles Lands, which ought to haue bin seized into the kings hands, by reason of the minoritie of the heire. And within a short space, two of the most potent among them, diuided that great Seigniory betwixt thē: the one taking the name of *Mac William Oughter;* and the other of *Mac William Eighter;* as if the Lord *William Bourk* the last Earle of *Vlster*, had lefte two sonnes of one name behinde him to inherit that Lordship in course of Gauelkinde.[1] But they well knewe, that they were but Intruders vppon the Kings possession during the minority of the heire; they knew those landes were the

[1] Baron Finglas, Manuscript.

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rightfull inheritance of that young Lady; and consequently, that the Law of England woulde speedily euict them out of their possession; & therefore, they held it the best policy to cast off the yoake of English Law, and to become meere Irish: and according to their example, drew al the rest of the English in that Prouince, to do the like; so as from thenceforth they suffered their possessions to run in course of *Tanistry* and *Gauelkinde*. They changed their names, language, and apparrell, and all their ciuil manners and Customes of liuing Lastly, about the 25. yeare of King *Edward* the third, Sir *Richard de Clare* was slaine in *Thomond*, and al the English Colonies there, vtterly supplanted. (*Annales Hiberniæ in Camden.*)

Thus in that space of time, which was betweene the tenth yeare of King *Edward* the second, and the 30. yeare of King *Edward* the third (I speak within compasse) by the concurrence of the mischiefes before recited, all the old English Colonies in *Munster*, *Conaght*, and *Vlster*; & more then a third part of *Leinster* became degenerat & fell away from the Crowne of England; so as onely the foure Shyres of the English Pale, remained vnder the Obedience of the Lawe; and yet the Borders and Marches thereof, were growne vnruly, and out of order too, being subiect to *Blacke-Rents* and *Tribute* of the Irish; which was a greater defection, then when tenne of twelue Tribes departed, and fell away from the Kinges of Iuda.

What courses haue bin taken to reforme this

But was not the State of England sensible of of this losse and dishonour? Did they not endeuour to recouer the

kingdom, since the English Colonies became degenerate.

Land that was lost, and to reduce the subiects to their Obedience?

Truely King *Edward* the second, by the incursions of the Scottish Nation, and by the insurrection of his Barons, who raised his wife and his Sonne against him, and in the end deposed him, was diuerted, and vtterly disabled to reforme the disorders of Ireland. But assoone as the crown of *England* was transferred to K. *Edw.* 3. though hee were yet in his minority, the State there beganne to looke into the desperate estate of thinges heere. And finding such a general defection, Letters were sent from the King, to the great men and Prelates, requiring them particularly to swear fealty to the Crowne of England. (*Archiv. Turr.* 2. *E.* 3, *claus. pers.* 1, *m.* 16.)

Edward 2.

King *Edward* 3. did first endeuor a reformation.

Shortly after, Sir *Anthony Lucie*, a person of great authority in England in those daies, was sent ouer to work a reformation in this Kingdome, by a seuere course; and to that ende, the King wrote expressly to the Earle of *Vlster*, and others of the Nobilitie to assist him, as is before remembered; presently vpon his arriual, he arrested *Maurice Fitz-Thomas* Earle of *Desmond*; and Sir *William Bremingham*, and committed them prisoners to the Castle of Dublin: where Sir *William Bremingham* was executed for treason, though the Earle of *Desmond* were left to Mainprize, vpon condition, hee should appeare before the King by a certain day, and in the meane time to continue loyall. (*Annales Hiberniæ in Camden.*)

Sir Anthony Lucie.

After this, the King being aduertised that the ouer-large Graunts of Lands and Liberties, made

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to the Lords of English Bloude in Ireland, made them so innocent, as they scorned to obey the Law, and the Magistrate, did absolutely resume all such Graunts, as is before declared. But the Earle of *Desmond* aboue al men, found himselfe grieued with this resumption, or Repeale of Liberties; and declared his dislike & discontentment: insomuch, as he did not only refuse to come to come to a Parliament at *Dublin*, summoned by Sir *William Morris*, Deputie to the L. *Iohn Darcy*, the kings Lieutenant: But (as we haue said before) he raised such dissention betweene the English of bloud, and the English of birth, as the like was neuer seen, from the time of the first planting of our Nation in *Ireland*. And in this factious and seditious humour, hee drewe the Earle of *Kildare*, and the rest of the nobility, with the Cittizens and Burgesses of the principall Townes, to hold a seuerall Parliament by themselues, at *Kilkenny*; where they framed certaine Articles against the Deputy, & transmitted the same into England to the King. *(Annales Hiberniæ in Camden.)*

Resumption of Liberties.

Heereupon Sir *Raphe Vfford* who had lately before married the Countesse of *Vlster*; a man of courage and seuerity, was made Lord Iustice: who forthwith calling a Parliament, sent a speciall commandment to the Earle of *Desmond*, to appeare in that great Councel: but the Earle wilfully refused to come. *(Annales Iohan. Clynne. Manus.)* Whereupon the Lord Iustice raised the Kings Standard, and marching with an Army into *Munster*, seized into the Kings handes, possessions of the Earle, tooke and executed all the his principall followers, Sir *Eustace le Poer*, Sir

Sir Raphe Vfford.

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Willlam Graunt, & Sir *Iohn Cotterell;* enforced the Earle himselfe to flye and lurke, till 26. Noblemen and Knights, became Mainpernors for his appearance at a certaine day prefixed: But he making default the second time, the vttermost aduantage was taken against his sureties. *(Annales Hiberniæ in Camden.)* Besides, at the same time, this Lord Iustice caused the Earle of *Kildare* to bee arrested and committed to the Castle of *Dublin*, indited & imprisoned manie other disobedient subiects, called in, and cancelled such Charters as wer lately before resumed; and proceeded euery way so roundly and seuerely, as the Nobility which were wont to suffer no controulment, did much distast him; and the Commons who in this Land haue euer bin more deuoted to their immediate Lords heer whom they saw euery day, then vnto their Soueraigne Lord & King, whom they neuer sawe; spake ill of this Gouernor, as of a rigorous & cruel man, though in troth hee was a singular good Iusticer; and, if he had not dyed in the second yeare of his gouerment, was the likliest person of that Age, to haue reformed and reduced the degenerate English Colonies, to their natural obedience of the crown of *England*.

Maurice Fitz-Thomas the first Earle of *Desmond* the author of the great oppressions and dissentions which distroyed the English Colonies.

THUS much then wee may obserue by the way, that *Maurice Fitz-Thomas*, the first Earle of *Desmond*, was the first English Lord that imposed *Coign* and *Liuery* vpon the Kings subiectes; and the first that raised his estate to immoderate greatnesse, by that wicked Extortion and Oppression; that he was the first that reiected the English Lawes and

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Gouernement, and drew others by his example to do the like; that he was the first Peere of *Ireland* that refused to come to the Parlament summoned by the Kinges Authority; that he was the first that made a diuision and distinction betweene the English of bloud, and the English of birth.

The fortune of the house of *Desmond.*

AND as this Earle was the onelie Authour, and first Actour, of these mischiefes, which gaue the greatest impediment to the full Conquest of *Ireland;* So it is to bee noted, that albeit others of his ranke afterwardes offended in the same kinde; whereby their Houses were many times in danger of ruin, yet was there not euer any Noble house of English race in Ireland, vtterly destroyed and finally rooted out by the hand of Iustice, but the house of *Desmond* onely; nor any Peere of this Realme euer put to death (though diuers haue bin attainted) but *Tho. Fitz-Iames* the Earie of *Desmond* only, and onely for those wicked Customes brought in by the first Earle, and practised by his posterity, though by seuerall Lawes they were made High-Treason. And therefore, though in the 7. of Edward the 4. during the Gouernment of the Lord *Tiptoft,* Earle of *Worcester,* both the Earles of *Desmond* and *Kildare* were attainted by Parlament at *Drogheda,* for alliance and fostering with the Irish; and for taking *Coign* and *Liuery* of the Kings subiects, yet was *Desmond* only put to death; for the Earle of *Kildare* receiued his pardon. And albeit the sonne of this Earl of *Desmond,* who lost his head at *Drogheda,* were restored to the Earldom; yet could not the kings

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The Counsel-Booke of Ireland. 32. H. 8. grace regenerate obedience in that degenerate house, but it grew rather more wilde and barbarous, then before. For from thencefoorth they reclaimed a strange priuiledge: *That the Earles of Desmond should neuer come to any Parliament or Grand-Counsell, or within any walled towne, but at their will and pleasure.* Which pretended Priuiledge, *Iames* Earle of *Desmond,* the Father of *Girald* the last Earle, renounced and surrendered by his Deed, in the Chancery of Ireland, in the 32. of *Henry* the eight. At what time, among the meer Irishry, hee submitted himselfe to Sir *Anthony Saint-Leger,* then Lord Deputy; tooke an Oath of Allegiance; Couenanted that he would suffer the law of England to bee executed in his Countrey; and assist the Kinges Iudges in their Circuits; and if any Subsidies should be granted by Parlament, he would permit the same to be leuied vpon his Tenants and followers. Which Couenants are as straunge as the priuiledge itselfe, spoken of before. But that which I conceiue most worthy of Obseruation, vpon the fortunes of the house of *Desmond,* is this; that as *Maurice Fitz-Thomas,* the first Earl, did first raise the greatnes of that house, by Irish exactions and oppressions; so *Girald* the last Earle, did at last ruine and reduce it to nothing, by vsing the like extortions. For certain it is, that the first occasion of his rebellion, grew from hence; that when he attempted to charge the *Decies* in the County of *Waterford,* with *Coigne* and *Liuery,* Blacke Rents and Cosheries, after the Irish manner, hee was resisted by the Earle of *Ormond,* and vppon an encounter, ouerthrowne and taken prisoner; which made his

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heart so vnquiet, as it easily conceiued treason against the Crowne, and broght forth actuall and open Rebellion, wherein he perished himselfe, and made a final extinguishment of his house and honour. Oppression and extortion did maintain the greatnesse; and oppression and extortion, did extinguish the greatnesse of that house. Which may well be exprest, by the old Embleme of a Torch turned downewards, with this word, *Quod me alit, extinguit.*

The course of Reformation pursued by *Lionell* Duke of *Clarence.*

Now let vs returne to the course of reformation, helde and pursued heere, after the death of Sir *Raphe Vfford,* which hapned in the twentieth yeare of K. *Edward* 3. After which time, albeit all the power and Counsell of England was conuerted towards the Conquest of *Fraunce,* yet was not the worke of reformation altogether discontinued. For, in the 25. yeare of K. *Edward* the third, Sir *Thomas Rookeby,* another worthy Gouernor (whome I have once before named) held a Parlament at *Kilkenny,* wherein many excellent Lawes were propounded and enacted for the reducing of the English Colonies to their Obedience; which Lawes we find enrolled in the Remembrauncers Office heere; and differ not much in substance, from those other Statutes of *Kilkenny,* which not long after (during the Gouernement of *Lionell* Duke of *Clarence*) were not onely enacted, but put in execution. This Noble Prince hauing married the Daughter and Heire of *Vlster;* and beeing likewise a Coparcener of the County of *Kilkenny,* in the 36. year of King *Edward* the thirde, came ouer the Kings Lieutenant, attended with a good retinue

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of martiall men, as is before remembred, and a Graue and Honorable Counsell, aswel for peace as for warre. But because this Armie was not of a Competent strength to breake and subdue all the Irishry, although he quieted the borders of the English Pale, and helde all Ireland in awe with his name and presence. The principall seruice that hee intended, was to reforme the degenerate English Colonies, and to reduce them to obedience of the English Lawe, and Magistrate. To that end, in the fortith yeare of King *Edward* the third, he held that famous Parliament at *Kilkenny;* wherein many notable lawes wer enacted, which doo shew and lay open (*For the Law doth best discouer enormities*) how much the English Colonies were corrupted at the time, and doe infallibly prooue that which is laide down before; That they were wholy degenerate, and faln away from their obedience. For first, it appeareth by the Preamble of these Lawes, that the English of this Realme, before the comming ouer of *Lionell* Duke of *Clarence*, were at that time becom meere Irish in their Language, Names, Apparell, and all their maner of liuing, and had reiected the English Lawes, and submitted themselus to the Irish, with whom they had many Mariages and Alliances, which tended to the vtter ruine & destruction of the commonwealth. (*Archiv. in Castro Dublin.*) Therefore alliaunce by Marriage, *Nurture of Infants*, and *Gossipred with the Irish*, are by this Statute made High-treason. Againe, if anie man of English race, should vse an Irish Name, Irish Language, or Irish Apparell, or any other guise or fashion of the Irish; if he had Lands or Tene-

Statutes of Kilkenny. *C.* 2. *C.* 3.

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ments, the same should be seized, til he had giuen security to the Chancery, to conform himselfe in al points to the English maner of liuing. And if he had no Lands, his bodie was to be taken and imprisoned, til he found Sureties as aforesaide.

Againe, it was established and commanded, that the English in all their Controuersies, should bee ruled and gouerned by the common Lawe of England: and if any did submit himselfe to the *Brehon* law, or *March* law, he should be adiudged a Traitor. (*C.* 4.)

Againe, because the English at that time, made warre and peace with the bordering enemy at their pleasure; they were expresly prohibited to leauie warre vpon the Irish, without speciall warrant and direction from the State. (*C.* 10.)

Againe, it was made pænall to the English, to permit the Irish to Creaght or graze vpon their Landes: to present them to Ecclesiasticall Benefices; to receiue them into any Monasteries, or Religious Houses, or to entertaine any of their Minstrels, Rimers, or Newes-tellers: to impose or sesse any Horse or Foot vppon the English Subjects against their willes, was made felony. (*C.* 12. *C.* 13. *C.* 15. *C.* 17. *C.* 22.) And because the great Liberties or Franchises spoken of before, were become Sanctuaries for all Malefactours, expresse power was giuen to the Kinges Sheriffes, to enter into all franchises, and there to apprehend all Fellons and Traitours. (*C.* 24.) And lastly, because the great Lordes, when they leuied forces for the publick seruice, did lay vnequall burdens vpon the Gentlemen and Free-holders, it was ordained, that foure Wardens of the peace in euery Countie, should set downe and appoint

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what men and Armour euery man should beare, according to his Free-hold, or other ability of estate.

The Statutes of Kilkenny, did much reforme degenerat English.

THESE and other Lawes, tending to a generall reformation, were enacted in that Parliament. And the Execution of these Lawes, together with the *Presence of the Kings Son*, made a notable alteration in the State and Manners of this people, within the space of seauen yeares, which was the tearme of this Princes Lieutenancy.

For, all the *Discourses* that I haue seene of the Decay of Ireland, doe agree in this; that the presence of Lord *Lionel*, and these Statutes of *Kilkenny*, did restore the English gouernment, in the degenerate Colonies, for diuers yeares. And the Statute of the tenth of *Henry* the seuenth, which reuiueth and confirmeth the Statutes of *Kilkenny*, doth confirme as much. For it declareth, *that as long as these Lawes were put in vse and execution, this Lande continned in prosperity and honor: and since they were not executed, the Subiectes rebelled and digressed from their allegeance, and the Land fell to ruine and desolation*. And withall, we find the effect of these Lawes in the Pipe-Rolles, and Plea-Rolles, of this Kingdome: For, from the 36. of *Edward* 3., when this Prince entred into his Gouernment, till the beginning of *Richard* the second his Raigne, we find the Reuennue of the Crowne both certaine and casuall in *Vlster*, *Munster*, and *Conaght*, accounted for; and that the Kings Writ did run, and the Common-Law was executed in

Stat. 10 *H.* 7, *c.* 8.

The presence of the Kinges Son, did much aduance the

reformation. euery of these Prouinces. I ioyne with these Lawes, the personall presence of the Kinges Son, as a concurrent cause of this Reformation: *Because the people of this Land both English & Irish, out of a naturall pride, did euer loue & desire to be gouerned by great persons.* And therefore, I may heere iustly take occasion to note, that first the absence of the Kings of England; and nexte, the absence of those great Lords, who were inheritors of those mighty Seigniories of *Leinster, Vlster, Conaght,* and *Meth,* have bin maine causes why this kingdome was not reduced in so many ages.

Absence of our Kings and great English Lords, a chief cause why the Kingdom was not reduced.

Absence of our Kings.

TOUCHING the absence of our Kinges, three of them onely since the Norman Conquest, haue made royall iournies into this Land; namely, K. *Henrie* the second, King *Iohn,* and king *Richard* the second. And yet they no sooner arriued heere, but that all the Irishry, (as if they had bin but one man) submitted themselues; tooke Oaths of fidelity, and gaue pledges & hostages to continue loyall. And, if any of those Kings hadde continued heere in person a competent time, till they had setled both English & Irish in their seuerall possessions, and had set the Law in a due course throughout the Kingdom; these times wherein we liue, had not gained the honor of the finall Conquest and reducing of *Ireland.* For the King (saith *Solomon*) *dissipat omne malum intuitu suo.* But when *Moses* was absent in the Mount, the peeople committed Idolatry: & when there was no King in *Israel,* euery man did what seemed best in his own eies.

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And therfore, when *Alexander* had conquered the East part of the world, and demaunded of one what was the fitest place for the seat of his Empire, he brought and laid a dry hide before him, and desired him to set his foote on the one side thereof; which being done, all the other parts of the Hide did rise vp: but when he did set his foot in the middle of the Hide, all the other parts lay flat and euen: Which was a liuely demonstration, that if a Prince keep his residence in the Border of his Dominions, the remoate parts will easily rise and rebell against him: but if he make the Center thereof, his seat, he shall easily keepe them in peace and obedience.

The absence of the great *English* Lords.

TOUCHING the absence of the great Lords: All Writers doe impute the decay and losse of *Leinster*, to the absence of these English Lords, who maried the fiue Daughters of *William Marshall* Earle of *Pembroke* (to whom that great Seigniory discended) when his fiue sonnes, who inherited the same successiuely; and during their times, held the same in peace & obedience to the Law of *England*, were all dead without Issue:[1] which hapned about the fortith yeare of King *Henrie* the third: for the eldest beeing married to *Hugh Bigot* Earle of *Norfolke*, who in right of his wife, had the Marshalship of *England;* The second, to *Warren de Mountchensy*, whose sole daughter and heire was matcht to *William de Valentia* halfe Brother to K. *Henrie* 3. who by that match was made Earle of *Pembroke;* The third, to *Gilbert de Clare*, earl of *Glocester;*

[1] Baron Finglas, Manuscript.

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The fourth, to *William Ferrers*, Earle of *Darby;* The fift, to *William de Bruce*, Lord of *Brecknocke:* These great Lordes, hauing greater inheritances in their owne right in *England*, then they hadde in *Ireland* in right of their Wiues (and yet each of the Coparceners, had an entire Countie allotted for her purparty, as is before declared) could not be drawne to make their personal residence in this Kingdom; but managed their estates heere, by their *Seneschals and Seruants*. And to defend their territories against the bordering Irish, they entertained some of the Natiues, who pretended a perpetuall Title to those great lordships. For the Irish after a thousande Conquests & Attainders by our law, would in those daies pretend title still, because by the Irish Lawe no man could forfeit his Land. These natiues taking the opportunity in weake and desperate times, vsurped those Seigniories; and so *Donald Mac Art Cauanagh*, being entertained by the Earl of *Norfolke*, made himselfe Lorde of the County of *Catherlogh:* And *Lisagh O Moore*, being trusted by the L. *Mortimer*, who married the Daughter and Heire of the Lord *Bruce*, made himselfe Lord of the Lands in *Leix*, in the latter end of king *Edward* the seconds raigne, as is before declared.[1]

Againe, the decay and losse of *Vlster* and *Conaght*, is attributed to this; that the Lorde *William Bourke*, the last Earle of that name, died without issue Male; whose Ancestors, namely, the Red-Earle, and Sir *Hugh de Lacy*, before him, being personally resident, helde vp their greatnesse there: & kept the English in peace, and the Irish

[1] Baron Finglas, Manuscript.

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in aw: But when those Prouinces discended vppon an *Heire Female* and an *Infant*, the Irish ouerran *Vlster*, and the yonger branches of the *Bourkes*, vsurped *Conaght*. And therefore, the Ordinance made in *England*, the 3. of *Richard* 2. against such as were absent from their Lands in *Ireland*;[1] and gaue two third parts of the profites thereof vnto the King, vntill they returned, or placed a sufficient number of men to defend the same, was grounded vppon good reason of state: which Ordinaunce was put in execution for many yeares after, as appeareth by sundry seizures made thereupon, in the time of King *Richard* 2. *Henry* 4. *Henry* 5. and *Henry* 6. whereof there remaine Recordes in the Remembrancers Office heere. Among the rest, the Duke of *Norfolke* himself was not spared, but was impleaded vpon this Ordinance, for two parts of the profits of *Dorburies* Iland, and other Landes in the Countie of *Wexford*, in the time of K. *Henry* 6.[2] And afterwards, vpon the same reason of State, all the Landes of the house of *Norfolke*, of the Earle of *Shrewesburie*, the Lord *Barkley*, and others (who having Lands in Ireland, kept their cōtinuall residence in England) were entirely resumed by the Act of Absentees, made in the 28. yeare of king *Henry* the eight.

Act of Absentees. 28 *H.* 8.

But now againe, let vs look back and see, howe long the effect of that reformation did continue, which was begun by *Lionel* Duke of *Clarence*, in the fortith yeare of K. *Edw.* and what

[1] Archiv. Turr. Rot. parliā. n. 42.

[2] Archiv. in Offic. Remem. Dublin.

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courses haue bin held, to reduce and reforme this people by other Lieutenants and Gouernors since that time.

The English Colonies beeing in some good measure reformed by the Statutes of *Kilkenny*, did not vtterly fal away into Barbarisme againe, till the warres of the two Houses had almost destroyed both these Kingdoms; for in that miserable time, the Irish found opportunity, without opposition, to banish the English Law and gouernment, out of all the Prouinces, and to confine it onely to the English Pale: Howbeit, in the mean time, between the Gouernment of the Duke of *Clarence*, and the beginning of those ciuill Warres of *Yorke* and *Lancaster*, we finde that the State of *England* did sundry times resolue to proceede in this worke of reformation.

The reformation intended by K. *Richard* 2.

For first, King *Richard* 2. sent ouer Sir *Nicholas Dagworth*, to suruey the intended possessions of the Crowne; & to call to accompt the Officers of the reuenue; Next, (to draw his English Subiects to manure & defend their lands in *Ireland*) he made that Ordinance against Absentees, spoken of before. Again, he shewed an excellent example of Iustice, vpon Sir *Phillip Courtney*, being his lieutenant of that kingdome, when he caused him to bee arrested by special Commissioners, vpon complaint of sundry greeuous oppressions and wrongs, which during his Gouernment, he had done vnto that people.[1]

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[1] Archiv. Turr. 3 Rich. 2. cl. m. 3. 3 Rich. 2, Rot Parliam. 11. 42. 9 Rich. 2. claus. m. 1. Walsingham in Rich. 2. 349, a.

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After this, the Parliament of England did resolue, that *Thomas* Duke of *Glocester*, the Kings Vnkle, should bee employed in the reformation and reduction of that Kingdome: the Fame wherof was no sooner bruted in *Ireland*, but all the Irishy were readie to submit themselues, before his comming: so much the very Name of a great personage, specially of a Prince of the blood, did euer preuayle with this people. But the King and his Minions, who were euer iealous of the Duke of *Glocester*, wold not suffer him to haue the honor of that seruice. But the King himselfe thought it a worke worthy of his own presence & pains: and thereuppon, Himselfe in person, made those two royall iournies mentioned before: At what time, he receiued the submissions of all the Irish Lordes and Captaines, who bounde themselues both by Indenture & oath to become and continue his Loyall Subiects. And withall, laid a perticular proiect, for a ciuill plantation of the Mountains and Maritime Counties, betweene *Dublin* and *Wexford;* by remoouing all the Irish Septes from thence, as apeareth by the couenants betweene the Earle Marshall of England, and those Irish Septs: which are before remembred, and are yet preserued, and remaine of Record in the Kings Remembrancers Office, at *Westminster*. Lastly, this King being present in Ireland, tooke speciall care to supply and furnish the Courtes of Iustice with able and sufficient Iudges; And to that end, he made that Graue and Learned Iudge, Sir *William Hankeford*, Chiefe Iustice of the Kings Bench heere (who afterwards for his seruice in this Realme, was made Chiefe Iustice of the kings bench in England, by K. *Henry*

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4.,[1]) and did withall, associate vnto him, *William Sturmy*, a well Learned man in the Law; who likewise came out of England with the K., that the legal proceedings (which wer out of order too, as all other things in that Realme were) might be amended, and made formall, according to the course and Presidents of *England*. But all the good purposes & proiects of this King, were interrupted and vtterly defeated, by his sodaine departure out of Ireland, and vnhappy deposition from the Crowne of England.

The reformation intended by *Hen.* 4.

HOWBEIT, King *Henrie* the fourth, intending likewise to prosecute this Noble worke in the third yeare of his raigne, made the Lord *Thomas* of *Lancaster*, his second sonne, Lieutenant of *Ireland*: Who came ouer in person, and accepted againe the submissions of diuers Irish Lords & Captaines, as is before remembred; and held also a Parliament, wherein hee gaue newe life to the Statutes of *Kilkenny*, and made other good Lawes tending to the Reformation of the Kingdome. But the troubles raysed against the King his Father in England, drew him home again so soon, as that seed of reformation, tooke no roote at all; neither had his seruice in that kinde, any good effect or successe.

After this, the State of England had no leisure to thinke of a generall reformation in this Realme, till the ciuill dissentions of England were apeased, and the peace of that kingdom setled, by K. *Henry* 7.

For, albeit in the time of King *Henry* 6.,

[1] Plac. coram Rege in Hibernia. Hillar 18 Ric. 2.

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Richard duke of *York*, a Prince of the blood; of great wisedome and valour, and heir to a third part of the Kingdome at least, being Earle of *Vlster*, and Lord of *Conaght* and *Meth*, was sent the Kinges Lieutenant into Ireland, to recouer and reforme that Realme where he was resident in person for the greatest part of 10. yeares, yet the troth is, he aymed at another marke, which was the Crown of *England*. And therefore, he thought it no pollicy to distast either the English or Irish, by a course of reformation, but sought by all meanes to please them, and by popular courses to steale away their hearts, to the end, hee might strengthen his party, when he should set on foot his Title (as is before declared.) Which policy of his tooke such effect, as that he drew ouer with him into England, the Flower of all the English Colonies, specially of *Vlster* and *Meth*, whereof many Noblemen and Gentlemen were slain with him at *Wakefield* (as is likewise before remembred.) And after his Death, when the warres between the Houses were in their heat, almost al the good English bloud which was left in Ireland, was spent in those ciuill dissentions: so as the Irish became victorious ouer all, *without Bloud, or Sweat*. Onely, that little Canton of Lande, called the English Pale, containing 4. small Shires, did maintain a bordering war with the Irish, and retaine the forme of English Gouernment.

But out of that little Precinct, there were no Lordes, Knights, or Burgesses, summoned to the Parliament; neither did the Kings Writt run in any other part of the kingdome: and yet vpon the Marches & Borders, which at that time were growne so large, as they tooke vp halfe *Dublin*,

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half *Meth*, and a third part of *Kildare* and *Lowth;* there was no law in vse, but the *March-Lawe*, which in the Statutes of *Kilkenny*, is said to be no Law, but a leud Custome.

So, as vpon the end of these ciuill warres in *England*, the English Law & Gouernment was well banisht out of Ireland, so as no foot-steppe or print was left, of any former Reformation.

The course of Reformation held by Sir Edward Poynings, in the time of K. *H.* 7.

THEN did King *Henry* 7. send ouer Sir *Edward Poynings* to be his Deputy, a right worthy seruitor both in war and peace. The principall end of his employment was to expel *Perkin Warbecke* out of this kingdome: but that seruice beeing perfourmed, that worthy Deputy finding nothing but a common misery, tooke the best course he possibly could, to establish a Common-wealth in Ireland: and to that end, he held a Parliament no lesse famous, then that of *Kilkenny;* and more auaileable for the reformation of the whole Kingdome. For whereas all wise men did euer concur in opinion, that the readiest way to reform Ireland, is to settle a forme of Ciuill Gouernment there, conformable to that of *England:* To bring this to passe, Sir *Edward Poynings* did passe an Acte, whereby all the Statutes made in *England* before that time were enacted, established, and made of force in *Ireland*. Neither did he onely respect the time past, but prouided also for the time to come. For, he caused another Law to be made, that no Act should be propounded in any Parliament of Ireland, but such as should bee first transmitted into England, and approued by the King and Counsell there, as good and

Poynings Act.

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expedient for that Land, and so returned backe againe, vnder the Great Seale of England. This Act, though it seeme *Prima facie* to restrain the liberty of the subiects of Ireland; yet was it made at the Prayer of the Commons, vpon just and important cause.

For the Gouernors of that realm, specially such as were of that Contry Birth, had layd many oppressions vpon the Commons: and amongst the rest, they had imposed Lawes vppon them, not tending to the generall good, but to serue priuate turnes, and to strengthen their particular factions. This moued them to referre all Lawes, that were to be passed in Ireland, to be considered, corrected, and allowed, first by the State of *England*, which had alwaes bin tender & carefull of the good of this people, and had long since made them a Ciuill, Rich, and Happy Nation, if their own Lords and Gouernours there, had not sent badde intelligence into England. Besides this, he took special order, that the summons of Parliament shold go into all the shires of *Ireland*, and not to the foure shires only; and for that cause specially, hee caused all the Acts of a Parliament, lately before holden by the *Viscount of Gormanston*, to be repealed and made voide. Moreouer, that the Parliamentes of *Ireland*, might want no desent or honorable forme that was vsed in *England*, he caused a particular Act to passe, that the Lords of *Ireland* should appeare in the like Parliament Robes, as the English Lords are wont to weare in the *Parliaments of England*. Hauing thus established all the statutes of *England* in *Ireland*, and set in order the great Counsell of that Realme, he did not omit to passe other Lawes, aswell for the encrease of the

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Kings Reuenue, as the preseruation of publick peace.

To aduaunce the profites of the Crown: First he obtained a subsidy of 26s. 8d. out of euery sixe score Acres manured, payable yearly for 5. years. Next, he resumed al the Crown land, which had been aliened (for the most part) by *Richard Duke of Yorke:* & lastly, he procured, a subsidy of *Pondage*, out of all Merchandizes imported & exported, to be granted to the Crown in perpetuity.

To preserue the publicke peace, he reuiued the Statutes of *Kilkenny*. He made wilfull murther High-Treason; he caused the Marchers to book their men for whom they should answere; and restrained the making Warre or peace, without speciall Commission from the State.

These Lawes, and others as important as these, for the making of a commonwealth in Ireland, wer made in the Gouernment of Sir *Edward Poynings*. But these Lawes did not spread their Vertue beyonde the English Pale, though they were made generally for the whole *Kingdome*. For the *Prouinces* without the *Pale*, which during the warre of *Yorke* and *Lancaster*, had wholly cast off the English Gouernment, were not apt to receyue this seed of reformation, because they were not first broken and maistered againe with the sword. Besides, the *Irish Countreyes*, which contained two third parts of the *Kingdome*, were not reduced to Shire-Ground, so as in thē the Lawes of *England* could not possibly be put in Execution. Therefore, these Lawes & prouisions made by Sir *Edward Poynings*, were like good Lessons set for a Lute, that is broken and out

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of tune; of which Lessons, little vse can be made, till the Lute be made fit to be plaid vpon.

And that the execution of al these *Lawes*, had no greater Latitude then the *Pale*, is manifest by the Statute of 13. of *Henry* 8., *c.* 3, which reciteth, that at that time, the *Kings* Lawes were obeyed and executed in the four shires onely; and yet then was the *Earle of Surrey Lieutenant of Ireland*, a Gouernor much feared of the Kings Enemies, and exceedingly honored and beloued of the Kings subiects. And the instructions giuen by the state of Ireland, to *Iohn Allen*, Maister of the *Rols*, employed into *England*, neere about the same time, doe declare as much; wherein among other things, hee is required to aduertise the King, that his Land of Ireland was so much decayed, as that the Kings Lawes were not obeyed twenty miles in compas. Whereupon, grew that By-word vsed by the Irish, (viz:) *That they dwelt Bywest the Law, which dwelt beyond the Riuer of the Barrow*, which is within 30. miles of *Dublin*. The same is testified by Baron *Finglas*, in his *Discourse of the Decay of Ireland*, which hee wrote about the 20. yeare of King *Henry* 8. And thus we see the effect of the Reformation which was intended by Sir *Edward Poynings*.

The Counsell Booke of Ireland. 16 *H* 8.

THE next Attempt of Reformation, was made in the 28. yeare of King *Henry* 8., by the Lorde *Leonard Gray*, who was created Viscount of *Garny* in this Kingdome, and helde a *Parliament*, wherein many excellent Lawes were made. But to prepare the mindes of the people to obey these

The reformation intended by the L. *Leonard Gray*, 28. *Hen.* 8.

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Lawes, he began first with a Martiall course: For being sent ouer to suppresse the Rebellion of the *Giraldines*, (which he performed in few months) he afterwards made a victorious Circuit round about the Kingdome; beginning in *Offaly*, against *O Connor*, who had ayded the *Giraldines* in their Rebellion; and from thence passing along through all the Irish Countries in *Leinster*, and so into *Mounster*, where hee tooke pledges of the degenerate Earle of *Desmond*, and thence into *Conaght*, and thence into *Vlster;* & then concluded this warlicke Progresse with the Battell of *Belahoo*, in the Borders of *Meth*, as is before remembred. *(Annales Hiberniæ Manus.)*

The Counsell Booke of Ireland. 28 *H.* 8.

The principall Septs of the Irishry beeing all terrified, and most of them broken in this iourney, manie of their chiefe Lords vppon this Deputies returne came to *Dublin*, and made their submissions to the crown of England; Namely, the *O Neales* & *O Relies* of *Vlster*, *Mac Murrogh*, *O Birne*, and *O Carrol* of *Leinster*, and the *Bourks* of *Conaght*.

This preparation being made, he first propounded and passed in Parliament these Lawes, which made the great alteration in the State *Ecclesiastical;* Namely, the *Act* which declared King *Henry* the eight to be supreme Head of the Church of Ireland. The *Act* prohibiting Apeales to the church of *Rome:* the *Act* for first fruites, and twentith part to be paid to the King: the *Act* for Faculties and Dispensations: And lastly, the *Act* that did vtterly abolish the vsurped Authoritie of the Pope. Next, for the encrease of the Kings Reuennew: By one Act, he suppressed sundry Abbeyes and Religious

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Houses; and by another Acte, resumed the Lands of the Absentees, (as is before remembred.)

And for the Ciuill Gouernment, a speciall Statute was made, to abolish the Black-Rents and tributes, exacted by the Irish, vpon the English Colonies; and another Law enacted, that the English Apparell, Language, & manner of liuing, should bee vsed by all such, as would acknoledge themselues the Kings Subiects. This Parliament being ended, the Lord *Leonard Gray*, was suddenly reuokt, and put to death in England, so as hee liued not to finish the woorke of Reformation which he had begun: which notwithstanding, was well pursued by his successors, Sir *Anthony Saint-Leger;* Vnto whom all the Lords and Chiefetanes of the Irishry, and of the degenerate English throughout the Kingdome, made their seueral submissions by Indenture (which was the fourth general submission of the Irish, made since the first attempt of the Conquest of Ireland) whereof the first was made to King *Henry* 2., the second to K. *Iohn*, the third to K. *Richard* 2., and [t]his last to Sir *Anthony Saint-Leger*, in 33. of *Hen.* 8.

The course of Reformation pursued by Sir *Anthony Saint-Leger*. Foure generall Submissions of the *Irish*.

In these Indentures of submission, all the Irish Lords do acknowledge K. *Henry* the eight to be their Soueraign Lord and King, and desire to bee accepted of him as subiects. They confesse the Kings supremacy in all causes, & do vtterly renounce the Popes Iurisdiction, which I conceiue to bee worth the noting, because, *when the Irish had once resolued to obey the king, they made no scruple to*

The Counsell Booke of Ireland. 32, 33, and 34 of *H.* 8.

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The Irish and degenerate English renounce the Pope.

renounce the Pope. And this was not only done by the meere Irish, but the chiefe of the degenerate English Families did perfourme the same: as *Desmond, Barry,* and *Roche,* in *Mounster;* and the *Bourkes,* which bore the Title of *Mac William,* in *Conaght.*

These submissions being thus taken, the Lorde Deputy and Counsell for the present Gouernment of those Irish Countries, made certaine Ordinances of state, not agreeable altogither with the Rules of the Law of *England;* the reason whereof, is exprest in the preamble of those Ordinances; *Quia nondum sic sapiunt leges & Iura, vt secundū ea iam immediate viuere & regi possint.* The chiefe points or Articles of which Orders registred in the Counsell-Booke are these: That King *Henrie* the eight, shold be accepted, reputed and named King of *Ireland,* by all the Inhabitants of the Kingdome; that al Archbishops and Bishops should bee permitted to exercise their Iurisdiction in euery Diocesse throughout the Land: that tithes should be duely set out, and paide: that Children should not be admitted to Benefices: that for euery Manslaughter, and theft aboue 14 d. committed in the Irish Countries, the offender should pay a fine of 40 li. twenty pound to the King, and 20 li. to the Captaine of the Country; and for euery thefte vnder 14 d. a fine of fiue marks should be paid 46 s. viij. d. to the Captaine, and 20 s. to the *Tanister:* That Horsemen and *Kearn* shold not be imposed vppon the common people, to bee fed and maintained by them: That the Maister shold answer for his seruants,

The Counsell Booke of Ireland. 38 *Henry* 8.

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and the Father for his Children. That *Cuttinges* should not be made by the Lorde vppon his Tenants to maintaine war with his neighbors, but only to beare his necessary expences, &c.

These Ordinances of state being made and published, there were nominated and appointed in euery prouince, certaine Orderers or Arbitraters, who instead of these Irish *Brehons*, should heare and determine all their Controuersies. In *Conaght*, the Archbishop of *Tuam*, the Bishop of *Clonfert*, Captaine *Wakeley*, and Captaine *Ouington*. In *Munster*, the Bishop of *Waterford*, the Bishop of *Corke* and *Rosse*, the Maior of *Corke*, and Maior of *Youghail*. In *Vlster*, the Archbishop of *Ardmagh* & the Lord of *Lowth*. And if any difference did arise, which they could not end, either for the difficultie of the cause, or for the obstinacy of the parties, they were to certifie the Lord Deputy and Counsell, who would decide the matter by their authority.

Heereuppon, the Irish Captaines of lesser Territories, which had euer bin oppressed by the greater and mightier; some, with Risings out; others, with *Bonaght*, and others, with *Cuttings*, and spendings at pleasure, did appeale for *Iustice* to the Lorde Deputy; who vpon hearing their Complaints, did alwayes order, that they should all imediatly depend vpon the King; and that the weaker should haue no dependancy vpon the stronger.

Lastly, he preuailed so much with the greatest of them; Namely, *O Neale*, *O Brien*, and *Mac William*, as that they willingly did passe into *England* and presented themselus to the King, who thereuppon was pleased to aduance them to

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the degree and honour of Earles, & to grant vnto them their seuerall Contries, by Letters patents. Besides, that they might learne Obedience and Ciuility of manners, by often repairing vnto the State, the K. vpon the motion of the same Deputy, gaue each of them a house and Lands neere *Dublin*, for the entertainment of their seuerall traines.

This course, did this Gouerunour take to reforme the Irishry; but withall, he did not omit to aduance both the honor and profit of the King. For in the Parliament which he helde the 33. of *Henry* 8. hee caused an Acte to passe, which gaue vnto K. *Henry* 8., his heyres and successors, the name, stile, and Title of *King* of Ireland; whereas before that time, the Kings of *England* were stiled but Lords of *Ireland*: albeit indeed, they were absolute *Monarks* thereof, and had in right all Royall & Imperial Iurisdiction & power there, as they had in the Realm of England. And yet because in the vulgar conceit the name of *King*, is higher then the name of Lorde; assuredly, the assuming of this title, hath not a litle raysed the soueraignty of the K. of England in the minds of this people. Lastly, this Deputy brought a great augmentation to the *Kings* Reuenue, by dissoluing of all the Monasteries and Religious Houses in Ireland, which was done in the same Parliament: & afterward, by procuring *Min* and *Cavendish*, two skilfull Auditours, to be sent ouer out of England. Who tooke an exact suruey of all the possessions of the Crowne, and brought manie things into charge, which had beene concealed and substracted for manie years before. And thus far did Sir *Anthony Saint-Leger*

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proceed, in the course ot Reformation; which though it wer a good beginning, yet was it far from reducing Ireland to the perfect Obedience of the Crown of England. For all this while, the Prouinces of *Conaght* and *Vlster*, and a good parte of *Leinster*, were not reduced to Shire-Ground. And though *Mounster* were anciently diuided into Counties, the people were so degenerate, as no Iustice of Assise, durst execute his Commission amongst them. None of the Irish Lords or Tenants were setled in their possessions, by any Graunt or Confirmation from the Crowne, except the three great Earles before named; who notwithstanding, did gouern their Tenants and Followers, by the Irish or *Brehon* Law; so as no treason, murther, rape, or theft, committed in those Countries, was inquired of, or punisht by the Law of England; and consequently, no Escheat, Forfeiture, or Fine; no Reuenue (certain or casuall) did acrew to the Crowne out of those Prouinces.

The course of Reformation prosecuted by *Thomas* Earle of Sussex, in the time of *Q. Mary*. Leix & Offaly made two Counties, 3 and 4 *Phil.* and *Mariæ*.

The next worthy Gouernor that endeuoured to aduance this Reformation, was *Thomas* Earle of Sussex; who hauing throughly broken and subdued the two most rebellious and powerful Irish Septs in *Leinster;* namely, the *Moores* & *O Connors*, possessing the territories of *Leix* & *Offaly*, did by Act of Parliament, 3. & 4. *Phil.* & *Mariæ*, reduce those Countries into two seuerall Counties; naming the one, the *Kinges;* and the other the *Queenes* County; which were the first two Counties that had beene made in this Kingdome, since the twelfth yeare of King *Iohn;* at

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what time the Territories thē possessed by the English Colonies, were reduced into 12. Shires, as is before expressed.

This Noble Earle, hauing thus extended the Iurisdiction of the English Lawe into two Counties more, was not satisfied with that addition, but tooke a resolution to diuide all the rest of the Irish Countries vnreduced, into seuerall Shires; and to that end, he caused an Act to passe in the same Parliament, authorising the Lord Chancellour, from time to time, to award Commissions to such persons, as the Lord Deputy should nominate and appoint, to viewe, and perambulate those Irish territories; and thereupon, to diuide and limit the same into such and so many seuerall Counties as they should think meete; which beeing certified to the Lord Deputy, and approued by him, should bee returned and enrolled in the Chancery, and from thenceforth be of like force and effect, as if it were doone by Act of Parliament.

Thus did the Earle of *Sussex* lay open a passage for the Ciuill gouernment into the vnreformed partes of this Kingdome, but himselfe proceeded no further then is before declared.

The course of Reformation followed by Sir *Henry Sidney* in the time of *Qu. Elizabeth.*

HOWBEIT afterwardes, during the raigne of Queene *Elizabeth*, Sir *Henry Sidney*, (who hath lefte behinde him many Monuments of a good Gouernour in this Land) did not onely pursue that course which the Earle of Sussex began, in reducing the Irish Countries into Shires, and placing therein Sheriffes, and other Ministers of the Law; (for first hee made the *Annaly* a Territory in *Leynster*, possessed by the Sept of *Offerralles*, one

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entire Shire by itselfe, and called it the County of *Longford;* and after that he diuided the whole Prouince of *Conaght* into sixe Counties more; namely, *Clare* (which containeth all *Thomond*) *Gallaway, Sligo, Mayo, Roscomon,* and *Leytrim:*) But he also had caused diuers good Lawes to be made, & performed sundry other seruices, tending greatly to the Reformation of this Kingdome. For first, to diminish the greatnesse of the Irish Lordes, and to take from them the dependancy of the Common people, in the Parliament which he held 11. *Eliz.* Hee did abolish their pretended and vsurped Captain-ships, and all exactions, and extortions incident thereunto. Next, to settle their Seigniories & possessions in a course of Inheritance, according to the course of the Common Law, he caused an Act to passe, whereby the Lord Deputy was authorised to accept their Surrenders, and to regrant estates vnto them, to hold of the Crowne by English tenures and seruices. Againe, because the Inferior sort were loose and poor, and not amesnable to the Law; hee prouided by another Act, that fiue of the best & eldest persons of euery Sept, should bring in all the idle persons of their surname, to be iustified by the Law. Moreouer, to giue a ciuill education to the Youth of this Land in the time to come, prouision was made by another Law, that there should be one Free-schoole, at least, erected in euery Diocesse of the Kingdome. And lastly, to invre and acquaint the people of *Mounster* and *Conaght,* with the English Gouernment againe (which had not been in vse among them, for the space of 200 yeares before:) hee instituted two Presidency Courtes in those two Prouinces, placing Sir

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Edward Fitton in *Conaght*, and Sir *John Perrot* in *Mounster*.

To augment the Kings Reuennew in the same Parliament, vppon the attainder of *Shane O Neale*, hee resumed & vested in the Crowne, more then halfe the Prouince of *Vlster:* He raised the Customes vpon the principall cōmodities of the Kingdome: He reformed the abuses of the Exchequer, by many good orders and instructions sent out of *England;* and lastly, he established the composition of the *Pale*, in liewe of Purueyance and Sesse of Souldiers.

These were good proceedinges in the worke of Reformation, but there were many defects & omissions withall; for though he reduced all *Conaght* into Counties, he neuer sent any Iustices of Assize to visit that Prouince, but placed Cōmissioners there, who gouerned it onely in *A course of discretion;* part Martiall, and part Ciuill. Againe, in the Law that dooth abolish the Irish Captain-ships, he gaue waie for the reuiuing thereof againe, by excepting such, as should be granted by Letters Patentes from the Crowne; which exception did indeede take away the force of that Law. For no gouernour during Queene *Elizabeths* raigne, did refuse to grant any of those Captain-ships, to any pretended *Irish* Lord, who would *Desire*, and with his thankefulnesse *Deserve* the same. And againe, though the greatest part of *Vlster* were vested by Act of Parliament, in the actuall and reall possession of the Crowne; yet was there neuer any seisure made thereof, nor any part thereof brought into charge, but the Irish were permitted to take all the profits, without rendering any dutie or acknowledgement for

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the same; and though the name of *O Neale* were damned by that act, and the assuming thereof made High treason; yet after that, was *Tirlagh Leynnagh* suffered to beare that Title, and to inrude vpon the possessions of the Crown, and yet was often entertained by the State with fauour. Neither were these lands resumed, by Act of 11. of *Elizabeth* neglected onely (for the Abbaies and religious Houses in *Tirone, Tirconnell,* and *Fermannagh,* though they were dissolved in the 33. of *Henry* 8. were neuer surueied nor reduced into charge, but were continually possest by the religious persons) vntill his Maiestie that now is, came to the Crowne; and that which is more strãge, the Donations of Byshopprickes, being a flower of the Crowne (which the Kings of England did euer retaine in all their Dominions, when the Popes vsurped Authority was at the highest.) There were three Bishopprickes in *Vlster;* namely, *Derry, Rapho,* and *Clogher,* which neither Queene *Elizabeth,* nor any of her Progenitors did euer bestow; though they were the vndoubted Patrons thereof. So as King *Iames* was the first King of England that did euer supply those Sees with Byshops, which is an argument eyther of great negligence, or of great weaknesse in the State and Gouernours of those times. And thus farre proceeded Sir *Henry Sidney.*

The Reformation aduanced by Sir *Iohn Perrot.*

AFTER him, Sir *Iohn Perrot,* who held the last Parliament in this Kingdome, did aduance the *Reformation* in three principall points. First, in establishing he great composition of *Conaght;* in which

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seruice the wisedome and industry of *Sir Richard Bingham* did concurre with him: next, in reducing the vnreformed partes of *Vlster* into seauen shires; namely, *Ardmagh, Monahan, Tirone, Coleraine, Donegall, Fermannagh, & Cauan;* though in his time the Law was neuer executed in these new Counties by any Sheriffes or Iustices of Assize, but the people left to be ruled still by their own barbarous *Lordes* and *Lawes:* And lastly, by vesting in the Crowne, the Lands of *Desmond* and his Adherents in *Mounster*, and planting the same with English, thogh that plantation were imperfect in many points.

The seruice of *William Fitz-Williams* tending to reformation.

AFTER *Sir Iohn Perrot, Sir William Fitz-Williams* did good seruice in two other points. First, in raising a composition in *Mounster;* and then in setling the possessions both of the Lordes and Tenants in *Monahan*, which was one of the last Acts of State tending to the reformation of the Ciuill Gouernment that was performed in the raigne of Queene ELIZABETH.

Thus we see, by what degrees & what pollicy and successe the Gouernours of this Land from time to time, since the beginning of the raigne of King *Edward* 3., haue endeauored to reforme and reduce this people to the perfect obedience of the Crowne of *England:* And we finde that before the Ciuill Warres of *Yorke* and *Lancaster*, they did chiefely endeuour to bring backe the degenerate English Colonies, to their Duty and Allegeaunce, not respecting the meer Irish, whom they reputed as Aliens or Enemies of the Crowne. But after King *Henry* 7. had

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vnited the Roses, they labored to reduce both English and Irish together: which worke, to what passe and perfection it was brought in the latter end of Queene *Elizabeths* raign, hath bin before declared.

Whereof sometimes when I doe consider, I doe in mine owne Conceit compare these later Gouernors who went about to reforme the Ciuill Affairs in *Ireland*, vnto some of the Kings of *Israel*, of whom it is saide: That they were good *Kings*, but they did not cutt downe the Groues, and High places, but suffered the people still to burne Incense, and commit Idolatry in them: so Sir *Anthony Saint-Leger*, the Earle of Sussex, Sir *Henry Sidney*, & Sir *Iohn Perrot*, were good Gouernours, but they did not abolish the Irish Customs, nor execute the Lawe in the Irish Countries, but suffered the people to worship their barbarous Lordes, and to remaine vtterly ignorant of their Duties to God and the King.

How the Defects & errors in the gouernment of Ireland haue bin supplied and amended since the beginning of his Maiesties Raigne.

And now am I come to the happy raigne of my most Gracious Lord & Maister K. *Iames;* in whose time, as *there hath been a concurrence of many great Felicities:* so this among others may be numbred in the first ranke; that all the Defects in the Gouernment of *Ireland* spoken of before, haue beene fully supplied in the first nine yeares of his raigne. In which time, there hath bin more done in the worke & reformation of this *Kingdome;* then, in the 440. yeares which are past since the Conquest was first attempted.

Howbeit, I haue no purpose in this Discourse,

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to set forth at large all the proceedings of the State heere in reforming of this Kingdome, since his Maiesty came to the Crowne, for the parts and passages thereof are so many, as to express them fully, would require a seuerall Treatise. Besides, I for my part, since I haue not flattered the former times, but haue plainely laid open the negligence and errors of euery Age that is past, woulde not willingly seeme to flatter the present, by amplifying the diligence and true Iudgement of those Seruitours, that haue laboured in this Vineyard since the beginning of his Maiesties happy raigne.

I shall therefore summarily, without any amplification at all, shewe in what manner, and by what degrees, all the defects which I haue noted before in the Gouernment of this *Kingdome,* haue bin supplied since his Maiesties happy raigne beganne; and so conclude these obseruations concerning the State of *Irelaud.*

Errors in the carriage of the martiall affaires amended.

FIRST then, touching the Martiall affayres, I shall neede to say little, in regard that the Warre which finished the Conquest of *Ireland,* was ended almost in the instant when the crown descended vppon his Maiesty; and so there remained no occasion to amēd the former errors committed in the prosecution of the warre. Howbeit, sithence his Maiesty hath still maintained an Army heere, aswell *For a Seminary of Martiall Men;* as to *Giue strength and countenance to the Ciuill Magistrate;* I may iustly obserue, that this army hath not bin fed with *Coigne & Liuery,* or *Sesse* (with which Extortions the souldier hath bin norished

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in the times of former Princes), but hath *bin as iustly and royally paid, as euer Prince in the world did pay his Men of War*. Besides, when there did arise an occasion of employment for this army against the Rebell *Odoghertie;* neither did his Maiesty delay the re-inforcing thereof, but instantly sent supplies out of *England* and *Scotland;* neither did the Martiall men dally or prosecute the Seruice faintly, but *Did foorthwith quench that fire, whereby themselues would haue bin the warmer* the longer it had continued, aswell by the encrease of their entertainment; as by booties and spoile of the Countrey. And thus much I thought fit to note, touching the amendment of the Errors in the Martiall affaires.

How the Defects in the ciuill Gouernment, haue bin supplied.

SECONDLY, for the supply of the Defects in the ciuil Gouernment, these courses haue beene pursued since his Maiesties prosperous raigne began.

1. By establishing the publicke peace.

First, albeit vpon the end of the war, whereby *Tyrones* vniuersall Rebellion was supprest, the minds of the people were broken and prepared to Obedience of the Law; yet the *State* vpon good reason, did conceiue, that the publicke peace could not be setled, till the hearts of the people were also quieted, by securing them from the danger of the law, which the most part of them had incurred one way or other, in that great and general confusion.

Therefore, first by a generall Act of State, called the *Act of Obliuion* published by *Proclamation* vnder the great Seale; Al offences against the Crown, and all perticuler Trespasses between subiect and subiect, done at any time before his

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Maiesties raigne, were (to all such as would come in to the Iustices of Assise by a certaine day, and claime the benefit of this Act) pardoned, remitted, and vtterly extinguished, neuer to be reuiued or called in question. And by the same proclamation, all the Irishry (who for the most part, in former times, were left vnder the tiranny of their Lords and Chieftaines, and had no defence or Iustice from the Crowne) were receiued into his Maiesties *imediate protection.* This bred such comfort and security in the hearts of all men, as thereupon ensued, the calmest, and most vniversall peace, that euer was seen in *Ireland.*

2. By establishing the publicke Iustice in euery part of the Kingdome.

The publick peace being thus established, the State proceeded next to establish the publick Iustice in euery part of the Realm: And to that end, Sir *George Cary* (who was a prudent Gouernor, and a iust, and made a fair entry into the right way of reforming this Kingdome) did in the first yeare of his Maiesties raigne, make the first Sheriffes that euer were made in *Tyrone* and *Tirconnel;* and shortly after, sent Sir *Edmund Pelham* Chiefe *Baron,* & myselfe thither, the first Iustices of Assise that euer sat in those *Countries:* and in that Circuit, wee visited all the shires of that Prouince: Besides which visitation, though it were some-what distastfull to the Irish lords, was sweet and most welcome to the Common people; who, albeit they were rude & barbarous, yet did they quickly apprehend the difference betweene the tiranny and oppression vnder which they liued before, & the iust gouernment and protection which wee promised vnto thē for the time to come.

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The Lawe hauing made her Progresse into *Vlster* with so good successe, Sir *Arthur Chichester* (who with singular Industry, Wisedome, and Courage, hath now for the space of 7. years and more, prosecuted the great worke of Reformation, and brought it well neere to an absolute perfection) did in the first year of his gouernment, establish two other *Newe* Circuits for Iustices of Assise; the one in *Conaght*, and the other in *Mounster*. I call them *Newe* Circuits, for that, although it bee manifest by manie Recordes, that *Iustices Itinerant* haue in former times beene sent into all the shires of *Mounster*, & some part of *Conaght;* yet certaine it is, that in 200. yeares before (I speake much within compasse) no such Commission had bin executed in either of these 2. Prouinces. But now, the whole Realme being diuided into *Shires*, and euerie bordering Territory, whereof anie doubt was made in what County the same should ly, being added or reduced to a County certaine (among the rest, the *Mountaines* and *Glynnes* on the South side of *Dublin*, wer lately made a Shire by it elf, and called the County of *Wicklow:* wherby the Inhabitants which were wont to be Thorns in the side of the *Pale*, are become ciuill and quiet Neighbors thereof,) the streams of the publicke Iustice were deriued into euery part of the Kingdome; and the benefit and protection of the law of England communicated to all, aswell Irish as English, without distinction or respect of persons; By reason whereof, the worke of deriuing the publick Iustice, grew so great, as that there was *Magna messis, sed Operarii pauci*. And therefore, the number of the Iudges in euery Bench was increased, which do now euery halfe

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yeare (like good *Plannets* in their seuerall *spheares* or *Circles*) carry the light and influence of Iustice, round about the *Kingdom;* whereas the Circuits in former times, went but round about the *Pale,* like the Circuit of the *Cinosura* about the *Pole.*

Quæ cursu interiore, breui conuertitur orbe.

The good effects which followed the execution of the law thoroughout the Kingdome.

VPON these Visitations of Iustice, whereby the iust and honourable Law of England was imparted and communicated to al the Irishry, there followed these excellent good effects.

First, the Common people were taught by the Iustices of Assise, that they were free subiects to the Kings of England, and not slaues & vassals to their pretended Lords: That the *Cuttings, Cosheries, Sessings,* and other Extortions of their Lords, were vnlawfull, and that they should not any more submit themselues thereunto, since they were now vnder the protection of so iust and mighty a Prince, as both would and could protect them from all wrongs & oppressions: They gaue a willing eare vnto these lessons; and thereupon, the greatnesse & power of those Irish Lords ouer the people, sodainly fell and vanished, when their Oppressions and Extortions were taken away which did maintain their greatnesse: Insomuch, as diuers of them, who formerly made themselues Owners of al (by Force;) were now by the law reduced to this point; That wanting meanes to defray their ordinary charges, they resorted ordinarily to the Lord Deputy, and made petition, that by License and warrant of the State, they might take some aid and contribution from their people;

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aswel to discharge their former debts, as for competent maintenance in time to come: But some of them being impatient of this diminution, fled out of the Realme to forraign Countries. Whereupon, we may well obserue; That, *as Extortion did banish the old English Free-holder, who could not liue but vnder the Law; So the Law did bannish the Irish Lord, who could not liue but by Extortion.*

Againe, these Circuits of Iustice, did (vpon the end of the warre) more terrifie the loose and ydle personnes, then the execution of the martial law, though it were more quicke and sodaine: and in a short time after, did so cleare the Kingdome of Theeues, & other Capitall Offenders, as I dare affirme, that for the space of fiue yeares last past, there haue not bin found so many Malefactors worthy of death in al the six Circuits of this realm (which is now diuided into 32. shires at large) as in one Circuit of six Shires; namely, the Westerne Circuit in England. For the troth is, that in time of peace, the Irish are more feare-full to offend the Law, then the English, or any other Nation whatsoeuer.

Againe, whereas the greatest aduantage that the Irish had of vs in all their Rebellions, was, *Our Ignorance of their Countries, their Persons, and their Actions:* Since the Law and her Ministers haue had a passage among them, all their places of Fastnesse haue been discouered and laide open; all their paces cleard; & notice taken of euery person that is able to do either good or hurt. It is knowne, not onely how they liue, and what they doe, but it is foreseen what they purpose or intend to do: Insomuch, as *Tirone* hath been heard to complaine, that he hadde so many eyes

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watching ouer him, as he coulde not drinke a full Carouse of Sacke, but the State was aduertised thereof, within few houres after. And therefore, those allowances which I finde in the ancient Pipe-Rolles, *Pro guidagio, et spiagio,* may be well spared at this day. For the Vnder-Sheriffes and Bayliffes errant, are better guides and Spies in the time of peace, then any were found in the time of war.

Moreouer, these ciuil assemblies at Assises and Sessions, haue reclaymed the Irish from their wildnesse, caused them to cut off their Glibs and long Haire; to conuert their Mantles into Cloaks; to conform themselues to the maner of *England* in all their behauiour and outward formes. And because they find a great inconuenience in mouing their suites by an Interpreter; they do for the most part send their Children to Schools, especially to learne the English language: so as we may conceiue an hope, that the next generation, will in tongue & heart, and euery way else, become *English;* so as there will bee no difference or distinction, but the Irish Sea betwixt vs. And thus we see a good conuersion, & the *Irish Game turned againe.*

For heeretofore, the neglect of the Lawe, made the English degenerate and become Irish: and now, on the other side, the execution of the Law, doth make the Irish grow ciuil, and become English.

Lastly, these generall Sessions now, do teach the people more obedience, and keep them more in awe then did the general hostings in former times. These Progresses of the Law, renew and confirme the Conquest of *Ireland* euery halfe yeare, and

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supply the Defect of the kings absence in euery part of the Realme; In that euery Iudge sitting in the seat of Iustice, dooth represent the person of the King himselfe.

These effectes, hath the establishment of the publicke *Peace* and *Iustice* produced, since his Maiesties happie Raigne began.

Howbeit, it was impossible to make a Commonweale in Ireland, without performing another seruice; which was, the settling of all the Estates and possessions, aswell of Irish, as English, thoroughout the Kingdome.

3. The setling of the States and possessions of the Irishry, aswel as of the English.

For, although that in the 12. year of Queen ELIZABETH, a special Law was made, which did enable the Lord Deputy to take surrenders, & regrant Estates vnto the Irishry (vpon signification of her Maiesties pleasure in that behalfe;) yet were there but few of the Irish Lords that made offer to surrender during her raigne: & they which made surrenders of entire Countries, obtained Graunts of the whole againe to themselues only, & to no other, and all in demeasne. In passing of which Graunts, there was no care taken of the inferior Septes, of people inhabiting and possessing these Countries vnder them, but they held their seuerall portions in course of Tanistry and Gauelkind, and yeilded the same Irish Duties or exactions, as they did before: So that vpon euery such Surrender & Grant, there was but one Freeholder made in a whole Country, which was the Lord himselfe; al the rest were but tenants at Wil, or rather tenants in villenage, and were neither fit to be sworne in Iuries, nor to performe any publicke seruice: And by reason of

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the vncertainty of their Estates, did vtterly neglect to build, or to plant, or to improue the Land. And therefore, although the Lorde were become the Kings Tenant, his Countrey was no whit reformed thereby, but remained in the former Barbarisme and Desolation.

Againe, in the same Queens time, there were many Irish Lordes which did not surrender, yet obtained Letters Patents of the Captaine-ships of their Countries, & of all Lands & Duties belonging to those Captain-ships: For the Statute which doth condemn & abolish these Captainries, vsurped by the Irish, doth giue power to the Lorde Deputy to graunt the same by Letters pattents. Howbeit, these Irish Captaines, and likewise the English, which were made Seneschalles of the Irish countries, did by colour of these Grants, and vnder pretence of Gouernment, claime an Irish Seigniory, and exercise plaine tiranny ouer the Common people. And this was the fruite that did arise of the Letters Patents, granted of the Irish Contries in the time of Q. *Elizabeth*, where before they did extort & oppresse the people, only by colour of a leud and barbarous Custom; they did afterwards vse the same Extortions and Oppressions by warrant, vnder the great seal of the Realme.

How the commissions for Surrenders, and defectiue Titles, haue bin put in execution:

But now, since his Maiesty came to the Crown, two speciall Commissions haue bin sent out of England, for the setling and quieting of all the possessions in Ireland; The one for accepting Surrenders of the Irish and degenerate English, and for regranting Estates vnto them, according to the course of the Common Law; The other, for

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strengthening of defeotiue Titles. In the Execution of which Cõmissions, there hath euer bin had a special care, to settle and secure the Vnder-Tenant; to the end, there might be a repose and establishment of euery Subiects Estate; Lord & Tenant, Free-holder and Farmer, throughout the kingdome.

Vppon Surrenders, this course hath bin helde from the beginning; when an Irish Lord doth offer to surrender his Country, his surrender is not immeditely accepted, but a Commission is first awarded, to enquire of three special points: First, of the quantity and limits of the Land whereof he is reputed owner. Next, how much himselfe doth hold in demeasne, and how much is possest by his Tennants and Followers. And thirdly, what Customes, Duties and Seruices, he doth yearly receiue out of those lands. This Inquisition being made & returned, the Lands which are found to bee the Lords proper possessions in demesn, are drawne into a *Particular;* and his Irish Duties; as *Cosherings, Sessings, Rents of Butter and Oat-meale,* and the like; are reasonably valued and reduced into certaine *Summes of Money,* to be paide yearly in lieu thereof. This being done, the surrender is accepted; and thereupon a Grant passed, not of the whole Country, as was vsed in former times, but of those Lands only, which are found in the Lords possession, & of those certaine summes of Money, as Rents issuing out of the rest. But the Lands which are found to be possest by the Tenants, are left vnto them, respectiuely charged with these certain Rents only, in lieu of all vncertaine Irish exactions.

In like manner, vpon all *Grants,* which haue

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past by vertue of the commission, for defectiue Titles, the Cō missioners haue taken speciall Caution, for preseruation of the Estates of all particular Tenants.

And as for Graunts of *Captaine-shippes* or *Seneschal-shippes*, in the Irish Countries; albeit, this Deputy had as much power and authority to graunt the same, as any other Gouernors had before him; and might haue raised as much profit by bestowing the same, if he had respected his priuate, more then the publicke good; yet hath he bin so farre from passing any such in all his time, as he hath endeuoured to resume all the Graunts of that kinde, that haue bin made by his Predecessors; to the end, the inferiour subiects of the Realme, should make their only and imediate dependancie, vppon the Crowne. And thus we see, how the greatest part of the possessions, (aswell of the Irish as of the English), in *Leinster*, *Conaght*, and *Mounster*, are settled and secured since his Maiestie came to the Crowne: whereby the hearts of the people are also setled, not only to liue in peace, but raised & incouraged to builde, to plant, to giue better education to their children, & to improue the commodities of their Landes; whereby the yearely value thereof, is already encreased double of that it was within these few yeares, and is like daily to rise higher, till it amount to the price of our Lande in England.

No Grant of Irish Captain-shippes or Seneschal-shippes, since his Maiesties raigne.

LASTLY the possessions of the Irishry in the Province of *Vlster*, though it were the most rude and vnreformed part of

The plantation of *Vlster*.

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Ireland, and the *Seat* and *Nest* of the last great rebellion, are now better disposed and established, then any the lands in the other *Prouinces*, which haue bin past and setled vpon Surrenders. For, as the occasion of the disposing of those Lands, did not happen without the speciall prouidence and finger of God, which did cast out those wicked and vngratefull Traitors, who were the only enemies of the reformation of *Ireland:* so the distribution and plantation thereof, hath bin proiected and prosecuted, by the speciall direction and care of the K. himselfe; wherein his Maiesty hath corrected the Errors before spoken of, committed by K. *Henry* 2. and K. *Iohn*, in distributing and planting the first conquered Landes. For, although there were six whole Shires to be disposed, his Maiesty gaue not an entire Country, or County, to any particular person; much lesse did he graunt *Iura Regalia*, or any extraordinary Liberties. For the best *British Vndertaker*, had but a proportion of 3000. Acres for himself, with power to create a Mannor, and hold a Court Baron: Albeit, many of these *Vndertakers*, were of as great birth & quality, as the best Aduenturers in the first conquest. Again, his Maiesty did not vtterly exclude the Natiues out of this plantatiō with a purpose to roote them out, as the Irish were excluded out of the first *English* Colonies; but made a mixt plantation of *Brittish* and *Irish*, that they might grow vp togither in one Nation: Only, the Irish were in some places transplanted from the Woods & Mountaines, into the Plaines & open Countries, that being remoued (like wild fruit trees) they might grow the milder, and beare the better & sweeter fruit. And this

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truly, is the Maister-piece, and most excellent part of the worke of Reformation, and is worthy indeed of his Maiesties royall paines. For when this Plantation hath taken root, and bin fixt and setled but a few yeares, with the fauour and blessing of God (for the son of God himselfe hath said in the Gospell, *Omnis Plantatio, quam non plantauit pater meus, eradicabitur)* it will secure the peace of *Irelād,* assure it to the Crowne of England for euer; and finally, make it a Ciuill, and a Rich, a Mighty, and a Flourishing Kingdome.

I omit to speake of the increase of the Reuenew of the Crown, both certaine and casuall, which is raised to a double proportion (at lest) aboue that it was, by deriuing the publick Iustice into all parts of the Realm; by setling all the possessions, both of the Irish & English, by re-establishing the compositions; by restoring and resuming the Customes; by reuiuing the Tenures in *Capite,* and *Knights-Seruice;* & reducing many other thinges into charge, which by the confusion and negligence of former times, became concealed and substracted from the Crowne. I forbeare likewise to speak of the due and ready bringing in of the Reuenue, which is broght to passe by the well-ordering of the Court of *Exchequer,* and the authority & paines of the Commissioners for Accompts.

I might also adde heerevnto, the encouragement that hath bin giuen to the Maritime Townes and Citties, as well to increase their trade of Merchandize, as to cherrish Mechanicall Arts and Sciences; in that all their Charters haue bin renued, & their Liberties more inlarged by his Maiesty, then by any of his Progenitors siuce the Conquest. As

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likewise, the care & course that hath been taken, to make Ciuil Commerce and entercourse betweene the Subiects, newly reformed and brought vnder Obedience, by granting Markets and Faires to bee holden in their Countries, and by erecting of corporate Townes among them.

Briefly, the clock of the ciuil Gouernment, is now well set, and all the wheeles thereof doe moue in Order; The strings of this Irish Harpe, which the Ciuill Magistrate doth finger, are all in tune, (for I omit to speak of the State Ecclesiasticall) and make a good Harmony in this Commonweale: So as we may well conceiue a hope, that *Ireland* (which heeretofore might properly be called the *Land of Ire*, because the *Irascible* power was predominant there, for the space of 400. yeares together) will from henceforth prooue a Land of *Peace* and *Concorde*. And though heeretofore it hath bin like the leane Cow of Egypt, in *Pharaohs* Dreame, deuouring the fat of *England*, and yet remaining as leane as it was before, it will heereafter bee as fruitfull as the land of *Canaan*; the description whereof, in the 8. of *Deutronomie*, doth in euery part agree with *Irelvnd*; being, *Terra Rivorum, aquarumq. et Fontium; in cujus Campis, & Montibus, erumpunt fluuiorum abyssi; Terra frumenti, & hordei; Terra lactis, & mellis; vbi absque vlla penuria comedes panem tuum, & rerum abundantia perfrueris.*

And thus I haue discouered and expressed the Defects and Errors, aswell *in the managing of the Martiall Affaires*, as *Of the Ciuil*; which in former Ages gaue impediment to the reducing of all Ireland, to the *Obedience & Subiection* of the Crowne of England. I haue likewise obserued,

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what courses haue bin taken, to *Reforme the Defects and Errors in Gouernment, and to reduce the people of this Land to Obedience,* since the beginning of the raigne of King *Edward* 3., til the latter end of the raigne of Q. *Elizabeth.*

And lastly, I haue declared & set forth, *How all the said Errors haue bin corrected, and the Defectes supplied vnder the prosperous Gouernment of his Maiesty ;* So as I may positiuely conclude in the same words which I haue vsed in the Title of this Discourse ; *That vntill the beginning of his Maiesties Raigne, Ireland was neuer entirely subdued, and brought vnder the Obedience of the Crown of England.* But since the crown of this kingdom, with the vndoubted right and Title thereof, discended vpon his Majesty ; The whol Island, from Sea to Sea, hath bin brought into his Highnes peaceable possession ; and all the Inhabitants, in euery corner thereof, haue bin absolutely reduced vnder his immediate subiection. In which condition of subiects, they wil gladly continue, without defection or adhaering to any other *Lord* or *King,* as long as they may be *Protected, and Iustly Gouerned,* without *Oppression* on the one side, and *Impunity* on the other. For, there is no Nation of people vnder the sunne, that doth loue equall and indifferent Iustice, better then the Irish ; or will rest better satisfied with the execution thereof, although it bee against themselues ; so as they may haue the protection & benefit of the Law, when vppon iust cause they do desire it.

Finis.

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A

NEW POST:

WITH

Soueraigne salue to cure the *Worlds madnes.*

Expressing himselfe in sundrie excellent *Essayes or wittie Discourses.*

A marke exceeding necessary for all *mens Arrowes.*

Whether
- The Great mans *Flight,*
- The Gallants *Rouer,*
- The Wisemans *Prickeshaft,*
- The Poore mans *Butshaft,*
- Or the Fooles *Birdbolt.*

Quantus in Orbe dolus.

By Sir *I. D.* Knight.

Printed for *Iohn Mariot.*

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A New Post.

THE World, (which is the shop or warehouse of all euills), was neuer since the beginning vnfurnished of most wicked commodities; and as Time, and mens lusts hath increast the trade, so hath the trade filled vp the empty places, and left no vacuity or vast corner in the world vnstored and filled vp, euen from the bottome to the top, with mymicke and fantasticke imperfections: with sinnes of all shapes, of all fashions, of al inuentions; sinnes of all proportions and all measures: the great man's creations, the meaner's imitations, the Court's ambition, the citie's surfaite, & the countrie's folly. The first being grounded vpon Enuy, the second on Pride, and the last on Weakenesse; so that according to the nature of man, the old world is full of old thoughts, and being nearest to the end is farthest from the amendement; hauing in it nothing but a couetous hoarding or gathering together of those vices, whose sadde waight cannot choose but shake the body into cinders. This mortall tympanie how many worthy Leeches haue studiously sought to cure; but their medicines haue either not beene receiued, or else so too earely cast vppe in vnnaturall vomits, that the vertue has been lost from want of retention. How hath Diuinity threatned, Morality condemned,

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Satyres whipped, Epigrammes mocked, and all in one iointly raised vp an earthquake or thunder against the Vices and Abuses of the times: yet still the world (as drowned in a lethargie or dead sleep) nussels and snorts in security, feeding Vice to such a monstrous bignesse, that men stand in awe and dare not forsake him, and women tye him to their waists with aboue a dozen points of the strongest riban. But may not this feare be taken from men, and this folly vntyed from the feminine gender? Yes, questionlesse and with great ease, if they will either take the antidote of Reason, against this poyson of nouelty, or bath themselues in the cleare and wholsome streames of moderation and discretion. It is nothing but the want of the discourse of Reason which doth breede this madnesse in mankinde, for where it raigneth, there can neither be want nor superfluitie; for it boundeth all thinges within a meane, and gouerneth with iustice and iudgement. It hath the true measure of goodnesse, and carryeth so euen the ballance which weigheth euery excellence, that no graine or drop can be insufficient, but our Reason may amend, alter or correct it. This, if either moderne phylosophers, or our liuing poets had instructed the world withall, surely all vice had long since forsaken vs, much gall had beene saued in their inke, lesse pepper and more salt had kept vertue in season without corruption. Since then, the knowlege and vse of Reason is the onely salue to cure these reasonlesse infirmities, it is not amisse in this little Dispensatorie, to shew the true manner of this composition, that euery man knowing the ingredients and their naturall operations, each man may bee his owne physition, and cure those maladies

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which make the world run mad with toyes and fantasmes. It is to be vnderstood then, that to make this excellent balme of Reason, euery man must take Number, Place, Time, Vse, Art, things Naturall, aboue Nature, and against Nature; and mixing them with example, distill them into a pure conscience; and the work is then finished. Now for the nature and operation of these simples, thus in these Essayes it followeth.

ESSAY I: OF NUMBER.

NVMBER doth consist of diuers things, either of one, or seuerall denominations: and without number there can be no true definition, demonstration, manifestation, nor vnderstanding of any thing. For if all things were but one, then were there no number or order. Wherefore one is saide to be no number, *sed scala de vnitate*, the beginning of number. In the Godhead, being before all Time, the Maker of Time, and all things that increase in Time, there is number. The trinitie of persons and vnity of Godhead, doe declare as much. For although God be a most singular diuine essence in Himself, yet hath Hee proportioned number in Himselfe, vnseparably vnited in His Godhead: which the Diuines call the Father, Sonne, and Holy Ghost. And the ancient philosophers call three inbeings, the Father, the actiue, or inworking vertue, power and nature; the Sonne, they call the Word,

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speech, or reason: and the Holy Ghost, loue. These philosophers haue striuen wonderfully in this labour, wherein they haue waded exceeding deepe. Æmelius the Disciple of Plotin, (Plotin En. 5. Lib. 1.) is sayde to name the Trinitie, three things, or three vnderstandings, the Beer, the Hauer, and the Seer. The Trinitie is expressed in these words, Power, Vnderstanding, and Will: which Trinitie maketh a full number of things belonging to a minde: which the philosophers esteem to be the Godhead. But to leaue off this kind of description I conclude with Plotinus; "There are," saith he, "three chiefe inbeings: The one, or the God. 2. The vnderstanding or wit. 3. The soule of the world." And of these three, saith he, "It is not for any man to speake, without praying vnto God, and without setling his mind afore vnto quietnes." "And if it be demanded," saith he, "how one of them begetteth an other, it is to be considered, that we speak of euerlasting things; & therefore we must not imagine any temporall begetting;" "for this begetting which we speake of," saith he, "betokeneth but onely cause and order."

This trinitie, and first, and euerlasting number, hath proportioned & appointed, other numbers, & in them a miraculous order. If any aske a reason hereof, I answere: It was the power, the wisdome, vnderstanding, & wil of God, to expresse Himselfe in this compleat number of persons, in one vnity of godhead. By this number three, was the whole world created, & al things innumerable: whose mouers are only known to the Creator Himself. In that number three, is expressed, the wonder of ye world: ye taking vp of Henock & Elias: & the

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Ascention of our Lord Iesus Christ. Ionas three dayes in the whales belly, and Christ three dayes in the graue. So that in the nomber of three, is manifested the eternall trinitie of the God-head; the creation of the world and of man; the life, the death, and the resurection. There consented to the destruction of man, the Serpent, the woman, and the man; there haue repaired that downfal, the Father, the giuer, the Sonne, the gift, and the Holy Ghost the Comforter. In the number of three, is a perfect conclusion of all things. Much may be said of the nomber and orders made by this trinitie; as fire, water, ayre, and earth, to make the world; the Spring, Somer, Autum, Winter, to make the yeare; East, West, North, South, to quarter the world; creatures, going, creeping, flying, swiming, with infinit milions of celestial & terestial bodies, which He keepeth, preserueth, boundeth in, & holdeth within this Trinity. And briefly, to wind vp this point concerning nomber, I hold it the original & most worthy part of the three; I mean, that Number is of higher consideration then place or time; for God Himselfe, that can by no means stoup to be known to the capacity of man, neither can be contained within any place, nor limited to any time, in respect of His omnipotent greatnesse and eternall essence, before and without respect of time, yet hath Hee vouchsafed to bring Himselfe within the compasse of number: and therein, & by the power therof, to create man in a blessed and happy estate.

Thus hauing in som measure discouered the nature & worthines of original number: desiring by al meanes to auoyd tediousnes, I leaue to be

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considered, that these and diuers other auncient Writers, that haue left behind them learned workes, had no other meanes to vnderstand any thing of the deity & eternity of the Godhead, or immortality of the soule, but the vse and helpe of Reason only, proper and peculiar to man. And so I proceed to the rest.

ESSAY II: OF PLACE.

IN respect of God, before the creation of the world & beginning of time, all was PLACE. And yet in respect of His greatnesse, there was no place; for He cannot be contained in any thing, but in Himselfe. If any be curious to demaund how spacious, large, or ample this place was, let him take his answere with Cato of Vtica, who would needs know of God why Cæsar ouercame Pompey. It is as if the meanest vassal in a kingdome should require ye king to giue a reason for all things he doth, or commandeth. Porpherius being much encumbred with vnderstanding of supernaturall causes, breaketh out into these words: "Seeing that God did by skill, dispose and ouerrule all things, and ordereth them by incomparable propriete of vertue: and on the contrary part, man's reason being very smal, is ignorant of most things, how skilfull soeuer it seeme to be of the truth; surely we may then cal it (meaning Reason) wise when it is not curious in searching

Place in respect of God.

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such doubtfull, and hard matters, as are matched with danger of blasphemie, but rather graunteth that the things which are done, are very well as they be:" "for," saith he, "what can our weak reason find fault with, or reproue in that great Reason" (meaning of the deitie.) As if he shuld haue said, The waies, the works, & the place of God and Eternity, are not to be searched nor enquired after by any creature whatsoeuer. If we descend but to the diuersitie of the condtion and nature of creatures confined vnto place, and their vnderstanding of matters, not designed, nor prouided for their estates & conditions; we shal haue sufficient cause to say, that Place was such, & so much as it pleased the purpose, prouidence, power, & wisdom of God.

Before there was a creation of things, and a beginning of time, PLACE was infinit & indefinit; indeuisible, without space or distance; without being repaired vnto, or departed from; neither containing nor contained, without center, circomferience, rule, or diameter; consisting neither of matter, substance, nor whatsoeuer stuffe. Euery thing hath his point, his center, his place, and beginning. Only ye diuine escence, place & nature of God hath none; as euery man that wil seriously looke into his owne self, shall be enforced to confesse. In nature, the greater can neuer be comprehended by ye lesser. But God in His nature, place, and essence, is greater then man. Therefore cannot God, His incomprehensible place and nature, be comprehended by the reason or vnderstanding of man. Nature is a thing wrought by God. Now, no worke how great soeuer, can perfectly expresse the cause or worker

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thereof. Therefore nature cannot vnderstand the diuine essence, place, and nature of God. The reasonable soule, is the admirable nature of man. Now, whosoeuer shall come to know his owne soule, and the place thereof, meerly by the power & worke of it selfe, shall confesse himselfe to be absolutely ignorant thereof. Therefore if nature & reason, with the powers & affects of the soule & reason, commeth short to know it self; much more must it come short, to discouer or vnderstand the incircumscriptible nature, essence and place of the Holy Trinitie. We see in the cours of the creatures of God, as well terestial as celestial, continual mouings from place to place, & all those moued by their Creator, the First Mouer, which argueth subiection & obedience in the creatures to the Creator: and out of a necessarie consequent of the contrarie, it discouereth that God the mouer, is neither moued, nor doth moue too or from any place. For to say, He is here, or there, it is all one; For He is euery where: as it is authentically prooued: "If I clime vp to heauen, Thou art there: If I goe downe to hell, Thou art there also: If I take the wings of the morning, and remaine in the vtmost part of the sea, euen there also shall Thy hand leade me and Thy right hand shall hold me: for the heauen is His seate, and the earth is His footestole. To conclude this point, we see and confesse, that God made, and knoweth all things: and hath appointed their natures, being, times and places. Now, if He had in Him the nature of any of His creatures, that is, to be limited vnto one, contained in place, or consisting of any materiall substance, the same would incomber His diuine essence: for Hee doth not come

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within the compasse of their limited nature, place, nor number; for by that meanes, wee should derogate from His holy and diuine deitie and essence of a Creator. Seeing therefore, that God is not compounded of material substance, He can not be a bodie. And seeing Hee is not a bodie, He can not bee contained in place, neither wholly nor in part: wherof it may properly be said, that Hee is no where: namely, that no part of Him is limited within any place to be pointed at, or described. For like as Hee made all things by the power of His beeing; so doth the same power enter into al things, fill all things and containe all things. And for so much as the same being & power is indiuisible, it is whole in all, and whole in euery part; so likewise, is He Himselfe whole throughout, in Whome all things haue their being; howbeit, He is not definitely, nor determinatly in any thing, nor in any particular place. Vpon which reason Aristotle made this definition of the soule of man; which commeth neerest to the nature of God. "Anima" saith he, "est totum in toto, & totum in qaulibit parte." The neerest beholding of this, is in our own minds. By the powers & working of the minde, we contemplate, behold, discerne, vnderstand, and iudge of things that are far remote from vs, & yet ouer selues neuer moue. The mind in this case doth not entermingle truth, nor participate with the nature, substance, nor condition of the things it entereth into. Iudge but of the reason thereof, which is breifly thus: These things are of lesse condition, nature, & qualitie, then the reasonable soules that possesse these mindes. God is said by the Philosophers, "to be vnmoueable, vnchangeable, beginninglesse,

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endles, bodilesse, infinit, incomprehensible," &c. Al which declare not what God is, but that Hee is not as His creatures are, locall; nor His creatures mixed or intermingled with Him, nor with His power or essence. For by these negatiues all other things are discouered, to haue beginning, to bee made, to determine, to be changeable, weake, materiall, corruptible; and to depend vpon an other being then themselues. And that God onely hath His being and place, in, and by Himselfe. And the more deeply any man will enter into consideration of these things, the more infinite and inscrutable shall he find them. For when he shall haue taken all the paines he can possible, he will confesse he hath learned no more, then to be ignorant of the want of his owne knowledge in that behalf.

Thus holding it necessary to discouer that there is no PLACE in respect of God, as the most readiest way to explane what place is, in respect of His creatures, and the worthinesse thereof; I proceede, desiring to be vnderstood, that my meaning is, for opening the point of my maine argument, by the way as I goe, to discouer, How supernaturall, naturall, and vnnaturall things, haue their operations and workings: and the monstrous products, that some things against nature are enforced to bring forth.

Place in respect of the Creatures.
Supernaturall.
Naturall.
Vnnaturall.

There is nothing created, but hath his speciall vse: be it materiall, or immaterial. Number serueth to make known to man his own weakenes: that those things that are most certainly knowen by number to the Creator, are notwithstanding, innumerable to the capacitie, reason, and vnder-

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standing of men: yea, much more, then the fantasie, conceipt, or imagination of men, can by any meanes, come neere vnto, or conceiue. All these thus made of nothing, maketh the more wonderfull the power of the Maker, and the order and worthinesse of nomber, within which condition euery creature is contained. To euery, and to the very least of these innumerable creatures, there is appointed a seuerall, distinct, particular, and locall place; diuided, seuered, and sundered from the rest: which sheweth what congruence there is, between number & place: that NOMBER being neuer so infinite, yet nothing wanteth his place. And PLACE being neuer so spatious and large, yet there is *nullum vacuum*, no void place: which declareth, how the workes of God do depend one of an other, in an admirable propotion & order, one in true vse, seruing the turne of another. For how could the creatures be, if they wanted place: Or, to what purpose serued place, if there were not creatures to supply them? This sheweth that God made nothing in vaine: & therefore His workes ought not to be lightly esteemed, much lesse abused.

The first creation wee reade of, is of angels. Place diuided. They were made in number. They attended their Maker in Heaueh. There, was their place, & although they were spirits and incorporall, yea standing vnder the law, obedience, and command of their Maker, they had such seuerall places as befitted creatures of such worthines, & vnder such conditions as they were enioyned vnto. Their disobedience and fall & thrusting & remoouing out of that blessed place, to another place of accursednesse, shew that there

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were seuerall places, euen for the spirites themselues: as likewise seuerall numbers appointed for these places. So hitherto NUMBER & PLACE go together, as necessary attendants on the prouidence, purpose, and will of God. But if any shall aske either number or place, of the blessed, or damned spirits, the time of their creation, or fall, or the reason why it is not discouered vnto men; let those men know, that they neither be within the number, creation, nor place of any those angels or spirits, but in another ranke of God's creatures, a little inferior to the angels. And therefore they must leaue them, their creation, number and place, to their Maker; as matters inscrutable and forbidden, that men should haue to meddle withall. The next creation is of the world; which consisteth of things, in number & place; the earth, the water, the elements, the sun, the moon, the stars, the beasts, birds, fishes, and lastly man; as is said in Holy Writ, "Male and female, made He them." In all these there is number. In respect of these diuers creatures that were made, there is number in the reasonable creatures, male & female. Place, in worthines & dignity: and the seuerall & diuers places their seuerall bodies were contained in or did supply. Besides, what the diuine Spirit of God hath reuealed, to holy men of the old ages, concerning these places, reason hath searched out diuers diuisions and subdiuisions of places; done, conceiued, and vnderstood by number & distance; which alwayes go together in what action soeuer, as relatiues, that depend one vpon another's being. The Mathematitians, in respect of the heigth of the heauens from the Earth,

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haue diuided this great spacious place, into ten heauens: which, whoso is skilled in their described spheres, may easily & readily vnderstand.

This is done, in respect of the large vaught and scope, that is betweene heauen and earth, and the creatures therein placed. They conceiue aboue these ten heauens, to bee the place and seate of God the Creator, and that all the creatures, except the holy Angels, are bound downe by this *primum mobile*, vnder their Maker, not to approach His admirable presence. Heere is still number & place; in their diuision, they haue appointed seuen seueral planets: wherof we haue warrant to speak of the Sun and Moone, by Holy Writ. And of the other starres there is great experience, and very profitable learning, hath bin collected and drawne from them. Vnder the lowest of these, being the moone, is affirmed to be a fierie region, kept all other creatures vnder, that they might not mount aboue, nor exceed their bounds. The like fierie region, is conceiued to bee aboue the tenth heauen, to keepe downe the creatures in in that mighty scope and compasse. So here goeth still together, number & place. Vnder the moone's orbe, they place the ayre to exist, which may not mount aboue the fierie region. With this aire, we haue more familiar acquaintance then with the rest, because it partaketh with our nature. And vnder the ayre, the earth and water. And so of fire, water, ayre, and earth, they hold the bodies of man to be composed: wherein still number and place, partake together in all occasions. If I should speak at large of the infinite number of ioynts, sinews, arteries, muscles, vaines, organs, instruments, matter, and things, whereof

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a perfect man doth consist, beside his immortall soule; it would be as admirable as the whole frame and hoste of heauen and earth, and all wherewith they are replenished. But if I should discourse of the reasonable and immortall soule and minde of man, the qualities, affects, effects, condition, state, attribute, & faculties of the soul and minde, it would farre surmount all the creatures that euer God made: and all in number, place, and TIME, which is the next point to be handled.

Then, gentle friend, I leaue thee a spectacle in thy selfe, to behold all these 3. excellent things; number, place, and time: with ye stuffe, substance, matter, and essence, whereof thou art composed; much exceeding all the rest, if they were all compared with thee. Abuse neither of them, least Time turne thee, in stead of a better place, from the number of the blessed, to a place of damnation, among the number of the damned spirites. So that whether thou seeke heauen, earth or hell, thou shalt finde all things to consist of number and place: therefore make account of them, as of their worthinesse.

Much might be said, of the number and place of the fixed and mouing starres; of the number of monarkes, kings, emperors, and their countries; the vegitatiue and sensitiue creatures; and of the things that haue onely being, without sense or growing. But because I am to speake in the next place of TIME, and of the vse thereof, I cease further to enlarge this point; with this conclusion, that exercise of reason, euen amongst the heathen and prophane men, hath waded farre into this matter.

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ESSAY III: OF TIME.

IN this discourse of TIME, there is an other way to discouer the truth thereof, then is vsed in handling the former. For in number and place, there is neither prioritie nor posteritie: for though in the Deitie there be three distinct persons in number, yet in reputation of place, greatnesse or number, none is greater or lesse then another: and in respect of of TIME, none is before or after an other: but the whole three persons are coequall together and coeternall.

The philosophers of auncient time, found in the reason of their soules, that there was a certaine nature and essence, which they alleage to bee three inbeings as is aforesaid; and that this great and eternall nature and essence, doe make the beginnings of all other natures, which are contained in time.

And besides among many opinions, there were of these philosophers,[1] that did maintaine and vphold two beginnings; which in all likely-hood they were induced vnto, out of the two seuerall dispositions and inclinations of the same in men, one to vertue, the other to vice. To these beginnings they giue seuerall names; the one good, which they called Oramases; the other euill, and that they call Arimarius. This opinion is furthered by some to haue his beginning from Zoroastres, the grand child of Noa: and from him, by tradition to the Persians, and from the

[1] Plutarche in the life of Osiris and Isis.

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Persians, to the Manachies. Their meaning & vnderstanding in this behalfe is, that the elements, the plants, the herbs, the trees, beastes, men and spirits, were diuided between these two gods, holding one to be creator of the good, and the other of the euil. To the one, they allotted light, to the other darknesse; to the one, Sommer, to the other Winter, &c. The sins, the wickednesse, & corruptions which they saw in the natures of men, differing from the perfection of a righteous Creator, drew them into these absurd opinions, because they held their corruptions and euils in time and qualitie, to be in the creation of those euill creatures. Which opinion, hath come neare to some in these Ages: who entering into consideration of the euill things, will not sticke, if not to affirme, yet at least to demaund, whether God be the author of euil?

These opinions may be answered thus. That making or creating, are referred to natures and substances: and that all originall natures & substances are good; and therefore that God, who is al good, is the Creator and Maker of them. Now euill, is neither a nature nor a substance but an income; which is fallen into natures and substances; and therefore not in the time of creation, but is come in since, by a colaterall meanes. Euill, is a breathing or diminishing of the foure good qualities & effects, which natures and substances ought naturally to haue.

Hereby wee see, that euen in time it selfe, good was before euill: and in place shall be farre preferred aboue it.

I conclude therefore, that Euill, being neither nature nor substance, hath not, nor can haue, any

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being in it selfe, but in the thing, that of his originall nature, or stuffe is good. Euill, is not an effect, but a default, not a production, but a corruption. Plato and Plotin[us] hold opinion, that euill is not a thing of it selfe, nor can bee imagined, but in the absence of goodnesse; as a depriuation of the good, which ought to bee naturally in euery thing.[1] And that euil is a certaine kinde of nothing, hauing no abiding but in the good; whereof it is a fault, or diminishing of perfection. By which they conceiue, that these things which haue their being, nature, and substance, onely temporary, and are finite with time, tending to the matter whereof they were first created, that is, to an vnbeing of that it formerly was; or to not beeing at all, as were the things whereof they were created; and vnto which, creatures haue still a certaine inclination, whereby they may fall from their goodnesse. By these & many other reasons, may bee concluded, that there was not two beginnings, but one beginning of creatures and TIME. But the euill is crept in since, in the default, decay, or absence of the good, which in the originall creation, was in the same natures and substances, that are now become euil.

Many supposals, imaginations, and opinions, haue beene holden of euerlastingnese, eternitie, & of the world, and of TIME, by old writers, that had no other meanes to reach vnto the same, but the scope of their owne weake reasons. But omitting the rest, I will come shortly to the point. Plotinus in his booke of Eternity and of Time,

[1] Plato. Plotin. and other great Writers. Tresmigistos in Asclapio: Simplicius.

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saith,[1] That Eternitie and Time differ in this respect, that eternity is verified, only of the euerlasting nature; (meaning the Creator:) but time, is to be verified of the things that are created. So as eternitie is, and abideth in God alone: which hee calleth the world; that is, to be conceiued but in minde and vnderstanding. And time, hee intendeth to abide in the world; that is, subiect to the senses. Adding further, that the world was not made in time, but together with time. Which opinion the Diuines themselues do hold.

The same Author, hauing taken wonderfull paines in that point, and hauing searched out the definitions of time, made by the former Phylosophers, knitting vp the knot of his whole learning thus: "We must needes," saith he, "come backe to the first nature: which I affirmed to be in eternitie: I meane, the vnmoueable nature, which is wholy all at once, the infinite and endlesse life; and which consisteth wholy in one, and tendeth vnto one." "But as yet," sayth he, "there was no time at all: or at least wise, it was not among the natures that consist in vnderstanding: but was to come afterward, by a certaine kinde of posterioritie." Out of which hee concludeth, that, "before such time as fore-nesse issued out, and had neede of after-nesse: Time, which as then was not, rested in God, with the residue of all things that nowe are." "But," saith hee, "a certaine nature bent to many doings, that is to wit, the soule of the world, being desirous to haue more then the present, began to mooue it self. And so from thence issued time, which passeth on continually, and is neuer the self same."

[1] Plotinus Enead. 3. Lib. 2. Chap. 1.

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By these conclusions, it is manifest, that the wisdome and prouidence of God, for speciall purposes and occasions, hath made and ordained these three, number, time, and place; not that they are any things, natures, nor sustenances, in respect of them selues, but in regard of the vse and employment thereof, for the numbering, placing, and conueying of things according to their qualities, natures, and effects, and for the beginning, disposing, and furnishing thereof.

Time properly of it selfe, is neither actiue nor passiue. It is neither escence nor substance, and scarcely can be said to haue existence. And albeit time passe faster then imagination, yet of it selfe, hath it no power to moue at all. And the best description thereof is, that Time is a certaine measure of mouing, or progression from one point to an other of things corruptible, finishing, ending, and ceasing to be, as time it selfe is; and is exercised altogether and alone in respect of corruptible things. In this appeareth the reason wherefore the worthy vnderstanding of number, place, and time, is onely known to man, and not to the other creatures, is by the spirituall, immateriall, and mortall essence and vnderstanding of the reasonable soule, which being created to endure when time shall be finished, hath power and facultie to discerne betweene things commencing, and transitorie things, mortal, & immortal; and so out of a greater worthinesse then time, or any corruptible substance, contained within the measure of time, to discern, the vse, scope, end, & purpose of al these les worthy & meaner things. And out of an infallible reason, to conclude, that the true vnderstanding of number, place, and time,

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their mixtures, diuisions, purposes, and ends, are knowne to men; and the vse thereof belongeth only vnto them. And that in this number, place, & time, the Creator hath made sufficient substance, stuffe and matter, to nourish, defend, and preserue the whole race of man-kind, without any other artificiall or vnnaturall workings. And vpon that ground, let this suffice for a conclusion, that whosoeuer goeth about by policie, art, or vnnaturall meanes, to erect, set vp, or maintaine any course or way, by proportioning of time, place, or number, for the benefit, reliefe, or sustentation of mankinde, then God Himselfe hath set downe and prouided, in the making and preseruing of His creatures; goeth about as much as in him lieth, to reproue his Creator for some defect or want: and to become Himselfe in the nature of a god, to supply, succor, and make good that want, or defect. Wherefore I aduise, great warines to be taken, how men presume too much of their owne wisdomes; and to containe themselues within al humble obedience; to take what God hath prouided, and not to erect, maintaine, or depend vpon vnnaturall, false and misconceiued supployments. All which I chuse, to manifest by examples, that haue proceeded from heathen men, which they only found out by reason; desiring Christians that haue all the blessings of God reuealed vnto them, to exceed, or at least, not to come short of the reasons of these prophane men.

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ESSAY IV: THE KNITTING TOGETHER OF NUMBER, PLACE, AND TIME: AND THEIR NECESSARIE VSES, WHICH CANNOT BE WANTING.

IT may seeme to some vnderstandings, that in these discourses, I make much adoe about little: or that I am tedious, and vse many preambles, circumstances, and illusions. Let me answere in a word, and giue some reason of my doing, and of my feare and carefulnesse, not rashly or sodenly to conclude so waighty a cause. First, I finde the way I am to take in this matter, how easie soeuer it seeme to others, to be full of briers, brambles, cragged rockes, ambushes, vneuen ground, pits, and many incombrances throwne in by the inuention of many; which must bee cut down, made plaine, or remoued: beside the marke and scope I ayme at, can be made apparant. To descend therefore to the point, there is discouered by learning, to be in man, a double life. The one in this world, in respect of his meere sensitiue parts: the second, in another world, in regard of his reasonable soul: the first dying, finishing, & ceasing to be; the second immortall, and neuer finishing, nor ending. And in respect of these two lawes, man hath two seuerall sortes of prouision. For the sensitiue life, the vse and benefit of the transitorie things of this corruptible world: for the reasonable soule, a prouision in an endlesse world like to mortality it selfe. In the creation, God made sundrie creatures; in the generall number whereof, man is.

A double life in man.

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Among the number of things, that haue either being, sence, or mouing, man is. But besides this, man hath a certaine genus, or kind specular alone by himself; and so is among the number of the reasonable creatures: a kinde and number, peculiar and alone proper vnto his nature and kind. And out of that reason, issueth two other conclusions, place and time, in this world, amongst the other creatures, so long as the sensitiue parts remaine in life, and after that, place and endlesse continuing in an other world. And in respect of immortalitie, man is either in number, place, & time, amongst the elect: or, number, place, and time, among the reprobates. Now, for that I so generally finde, that reasonable and immortall part, to bee so vniuersally caried away, seduced, and ouer-ruled by the meere sensitiue powers, entertaining the euill and forbidden things, and refusing the good, allowable and lawfull; I haue made thus bolde to distinguish betweene these two times, and to giue this cauiat to the possessers thereof, that they striue not ouermuch, to possesse or entertaine the number, place, and time, of these transitorie and corruptible blessings, as that thereby they loose, and faile to bee of the number, place, and time, of the elect: and bee cast amongst the number of the damned, into the place of vtter perdition. For assuredly, whosoeuer preferreth the pleasures of this world, before, or equall with the other, abuseth both his Creator, and creatures. All the shifts, policies, arts & deuices, that are vsed to crosse the ordinance and order of God, to erect, establish, or set vp any other way, or course of happinesse, either terene, or immortall, more or other then God himselfe hath prouided, ordained,

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& appointed, are no lesse dangerous then the eating of the forbidden fruit.

These notes I thought fit to let drop by the way, in regard that I shall after in an other place, treate of a vse generally exercised, which I take, doth neither proceed from God, nor nature. Into this disease, I feare many thousands are fallen, so vnrecouerably sicke, that with the sicke man at the point of death, they fall to bite the sheetes and pull the threeds of the couerlet, not knowing that they are sicke at all, feeling no paine of their infection; and so much the more daungerous is the sicknesse.

To come neerer to this point: It is plaine by sundry places of the holy Bible, that God alone, numbreth, weigheth, & diuideth. He measureth times, places, and seasons. Therefore let Him stand for the numberer, placer, disposer, and appointer of all creatures, their places, times, seasons; their beginings, continuings, finishings, chaungings, or ordainings. And let all His creatures be then numbered, placed, and limited, according to their creations, nature, qualities, and estates, not striuing against the purpose of His diuine prouidence, or adding, or diminishing, too or from, what Hee hath appointed or created.

To discouer this, I must distinguish betweene man and the other creatures, and the causes and markes they tend too and ayme at: together, with the admirable blessing of reason: and to what measure the capacity of man thereby extendeth, for the searching out the natures, qualities, times, seasons, places, and vses of the other creatures, which could not bee, but out of a kind of immortall nature, aboue all other creatures.

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It cannot be denied, but that God hath created all things, first for His owne glory and honour, wherein He appointeth seuerall vses and seruices. And within the compasse of this dutie, are all creatures, as well men and angels, as the other inferiour things. And on this behalf, God is satisfied with the seruice Hee hath appointed to Himselfe, so His ordinance and will be obeyed.

From thence, let vs come to things that are next vnto the seruice of God, & prouided to serue the vse of men. And therin will appeare what an excellent creature man is, in respect of his originall nature and reason, and what wonderfull, admirable, and aboundant blessings and stores, are prouided to serue his turne for both his liues: the true consideration whereof, may satisfie any tempered spirit to be contented with his Creator's owne workes and not to foyst in, or endeuor any other meanes of augmenting his happinesse. And to this purpose, let vs suruey in order the creatures which serue for the vse and preseruation of the life of man, and take them by degrees from the meanest to the greatest, and it will make any man wonder at the admirable greatnesse, plenty, and waightinesse thereof. Let vs consider them by degrees. The lowest & the meanest, which is the earth, therin behold the stuffe or matter wherewith this huge bale is filled, to make her swelling sides stiffe, strong, and full stuffed, that it shrinke not. Let vs consider the mettals, mines and store of gold, siluer, and other mineralls, inclosed in her wombe; the miraculous hanging thereof in the ayre, without support; the vaines, conducts, fountaines, springs, and riuers of water, that passe throgh her intralls; the hearbs, plants,

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trees, grasse, and fruite of sundrie sorts, that proceede and growe out of the richnesse and fatnesse therof; the rayne and deawes that water and moisten the same; the waters & deepes seuered from the earth, bounded and limitted within a compasse, vpon the superficies of some parte of the same earth, as it were in a great vessell, by the side of this great garden, ready at all times to be taken vp for the watering thereof, as pleaseth the master Gardener: small riuers & brooks that issue from fountaines innumerably,[1] seruing the turnes of men, beasts, fishes, and fowles of the ayre. Then behold the sensitiue creatures, their sundry kinds, & their vnknowne multitudes; the beasts of the field, and the varietie of their natures, imployments & vses: together with multitudes of fishes, & their exceeding many sorts. Consider all these well, & we shall find their creation was not to serue their own turnes, but only & alone for the vse of man, whose they are to be disposed of by the direct bountie & gift of the Creator. But how? To be vsed as He hath appointed and limitted for the preseruation & benefit of all mankind, not to the destruction of any. These things, neither know themselues, nor the ends wherefore they were made, & yet they vnknown to themselues, serue the vse & benefit of man; the leane and barren hastening their owne deaths, by how much they take pleasure to make themselues more speedily fat. If there were no more but this, is not here a wonderful blessing, and is not here sufficient & plentiful prouision for

[1] When I say innumerable, I meane according to the capacity of men.

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al the race of mankind, dispearsed vpon ye whole face of the earth? In which is not to be forgotten, that these creatures cease not in any instant of time, to yeelde increase for this prouision. But let vs procede a little further, and beholde the other two elements, fire and ayre: the one warming the sensitiue parts and the other maintaining the spirit that keepeth life; neither of these know what they are, nor the end they were made for. The very ayre it selfe, sustaineth and in a sort, preserueth ye flying fowles, in her concaue and hollow region. Let vs goe further; these foure elements, though there bee contrarietie in their seuerall natures, yet there is a simpathy and a ioynt working together by the appointment of the chiefe work-master; for the making, growing, cherishing, and maintaining of the life of man: as well by their incorparation in the body of man, as by the vse and fruition of these other creatures. Will you not think these sufficient, yea admirable blessings? The earth to bring forth fruite and hearbs, so vniuersally & continually; some for the foode of man, and others for the foode of beastes, to prepare them to be man's meate. The sheepe to bring both lambe for meat, & fleece for clothing; the beast, to bring the calfe, milke, butter, cheese, to be eaten and to bee worne; the fowle, to bring first egs, then chickens, & lastly, feathers for easie lodging; the fishes first spawn, & then frie; the trees to erect houses, and make the fire; the earth that produceth grasse, serueth for tile to couer the houses; the strawe that yeeldeth the corne, serueth other purposes; the timber that buildeth at land, serueth for nauigation at sea. Out of the line or flax that maketh

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the great cable, to bee drawne, the threeds that make the fine & curious linnen; from the sauage wilde beasts, their warm furs; from the hearbs & plants, rich and estimable vertues; & from the poore silke-worme, the costly apparell, of silkes and vellvets. It were a world to recite the seueral benefits that are drawn from these creatures; and I am perswaded, no creature can reduce them to a catologue; excellent wines, oyles, grapes, spices, perfumes, gummes, pearle, balmes, elixors, spirits, vertues, and quintessence. Out of the earth, are drawn metals of gold, siluer, copper, brasse, tinne, leade, yron, steele, and such like. Beholde how one benefit followeth and hasteneth in the necke of an other: the seuerall course of trying these mettalls, and the vse thereof, which themselues know not: Are not these infinit blessings, sufficient for men to content themselues with all, but they must needs goe further? Ouer all these, man and onely man, hath a power and dominion; the command & vse, but limited, not to be abused or exercised to other purposes then the Creator ordained. Beholde, what an insearchable reason is this one thing in the nature of man, by fire to trie out these mettals, and to season and apply them to their seuerall, necessarie, and commodious vses. But take heed of the abuse. Among many other hand uses of mettals; of yron and steele, they make kniues to cut meat: but it is not intended to cut men's throats: they make sickles and sithes to cut down corne and grasse, without intent to cut men's legs. The like may be concluded of the other mettals, and the vse of them. Wherefore to finish that point, gold and siluer being the finest mettals of the rest, are

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searched out, refined, & propotioned to passe betweene men at a value and rate, for the prouiding of victuall, apparell, and other necessaries to defend the bodie from heate, colde, and hunger: not that of themselues, simply by themselues, they are either diet, apparell, or prouision, to defende Winter's colde, or Sommer's heate, but rather an incomberment then comfort, if men be enforced to weare or vse them next their naked bodies, or to feede of their solide substances. It shall be necessarie therefore, that wee doe not dispose or employ the same, to beget generall creatures or bring forth any new creature, contrary & against his own nature: or to make it valuable with the least humaine and reasonable creature that euer was, or shall be borne.

Let vs looke further, & see whether we can find any other benefits, if these be not sufficient to satisfie vs. And as we began at the lowest, so let vs ascend vpwards. Aboue the ayrie region, the moone which lighteneth the night, gouerneth the sea, tempereth the heate, & comfortteth the vital powers, made by the prouidence & command of the Creator, hath her seuerall worlds or orbs, wherin she moueth. The like is holden of the other mouing stars, ye fixed stars, the very cope of heauen, wherin they are placed: the glorious sunne it selfe, placed in the middest of the heauens. Behold and looke vpon them, their innumerable company, their admirable beauty, their seuerall employments, courses and vertues; they all are ignorant of their owne natures, vertues, vigors, places, beauties, statelinesse, and disposes. They are the admirable workes of God, shewing forth His glorie vnto men. Al these also

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serue only to the benefit and vse of men, and none other. The sun to visit & comfort all the corners of the earth, in one yeare: neuer ceasing nor standing still, vnlesse it were to make the work admirable, & the workmaster and commander more wonderfull, it stood still in the time of Iosua.

The moone, once in thirty daies, making her reuolution, & al ye rest of those celestial creatures, in their times, order, numbers, & places, mouing with such harmony, consent, and agreement, to deuide the yeare into Somer & Winter, Spring and Fall: as wel to chasten the earth to make it fruitfull, as to comfort the hearbes and grasse, to make them growe; as well to ripen and gather the fruites of the earth, as to sowe seeds and set plants: to diuide the day and the night, and to proportion the times and season. They all keeping their own natures in their certaine number, their motions within the limits of an appointed place and their courses and reuolutions, iust at their appointed time. So that in all this whole host of heauen, there is no manner of stirring, staggering, mouing, or disordering, to the point of a pin, in respect of place; nor to the least instant, in regard of time: after they were once placed, & set to take their spacious iournies.

By the comfort and vertue of these, are all the inferiour bodyes, comforted, cherished, relieued, succoured, and made able to performe their seuerall duties. All these benefits hath God made to supply and serue the turne and vse of man. Behold, and looke vpon them with admiration! Consider whether they bee not aboue the conceite of all capacitie. Will any man affirme, that these are not enough and sufficient, to nourish, feede,

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succour, and preserue al the race of mankind: yea euery one, as well the meanest as the greatest.

Surely none, neither can nor will deny this to be true: and yet we see dayly many thousands want, famish, and pine to death, for want of these earthly necessaries. There must needs bee a fault in distribution & disposing of these benefits, or els none shuld not want: for God in his diuine wisedome in the creation, hath not appointed any such place of scarcitie, nor any number so to perish: nor any time when any such miserie should befall. This extremities must needs then proceed of some wrong course, order, or disposition amongst men, in the distribution of His benefits; for al the rest of His creatures haue not departed one iote from the worthinesse of their first creation.

Reason abused.

Well, to proceed, there is a greater benefite then all these; and that is the reason, vnderstanding, and witte of man; whereby hee knoweth all these things, their vertues and effects: and thereby of his owne proprietie and right, hee commandeth, disposeth, ordereth, and enioyeth, these lower creatures, as it serueth best for his turne and vse.

What is it to bee of neuer so great power, value, vigour, or worthinesse, to such a subiect, as neither vnderstandeth what it is of itselfe: nor what vertue is it selfe, nor to what turne it serueth? labouring still for others, and taking no pleasure therein to selfe.

This is the condition of the sunne, the moone, the firmament, and all the whole garnished and rich decked skies, with infinite numbers of starres. And of all the creatures in this sphere of elements, they are: and yet they know not, neither what,

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nor whereof, nor to what purpose they are. What then auaileth this glorious richnese vnto themselues? Surely nothing.

This doth wonderfully exalt the creation, worthinesse, and estimation of man, and of his reasonable soule: yea, of the meanest of all the race of man, aboue all these creatures, either cœlestial or terrestriall; in that he vnderstandeth them all, and enioyeth the vse, benefite, and profite of them all. May this not serue for a conclusion, and moue the hearts of men to be very carefull, how they either vse, or abuse the blessings and benefits of God? least in gathering too much, it turn to wormes, as manna did in the wildernesse: or to quayles, and it become the destruction of the eaters thereof, in stead of nourishment.

These benefites God hath bestowed on man, principally & chiefely to serue his turne, and to instruct and teach him, in this first life, which shall finish and ende. Behold, there are further matters, and benefits bestowed and prouided for The second life. man besides these; the meanest, farre exceeding the greatest of these. They are such, as I dare not define or treat of; and therefore with reuerence leaue them to the Reader's consideration, with such descriptions as they are left to me. They are such, "as the eye hath not seene, the eare heard, nor the heart of man can conceiue."

Oh, inestimable riches, peace, plentie, ioy, fulnesse, which God hath prouided for this immortall, reasonable soule, if it vary not from the direction of the Creator. And are not these yet sufficient? but man must be needes be medling with himselfe,

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patching, and playing the tinker, or botcher, vpon some imagination of their owne, and so marre all: which the auncient philosophers hold to be the reason, that man was cast out of the company of the gods, into this lower, base, and corruptible sphere of the elements.

This is not all, I say, that God hath done for man: for beside his creation, He doth doth still by His holy hand, vphold and support him; He hath receiued him to fauour, being abiected for vsing the creatures of God contrary to His ordinances; he hath set His holy angels to preserue & defend him: His only Son to loose His life to redeeme him; His most gratious Holy Spirit to be his comfort and consolation: a fulnesse of all benefites in this life: and eternal ioyes in heauen, &c.

Prouided alwayes, that wee doe not vse His creatures, to vnnaturall, vnlawfull, or forbidden vses, or employments. This is the happie estate of reasonable man, if he containe himselfe within his bounds. All the worlde will confesse no benefite or blessing can be added vnto it.

Let vs not therefore seeke to alter, change, charge, or incomber, the course and way, the Almightie power hath appointed in these things: least it turne to our vtter confusion. Let vs not wrong our reasonable soules, therefore: but schoole and instruct them, in such rudiments as may preserue their worthinesse.

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ESSAY V: REASON IS THE FOUNDER OF ARTS.

BY the precedent circumstances, it appeareth, that among all the creatures vnder heauen, man onely excepted, nothing is seene to bee made for it selfe, nor man onely for himselfe, but for the seruice of God. The sunne shineth and heateth, but not for it selfe. The Earth beareth, and yet hath no benefite thereby. The windes blowe, and yet they sayle not. The fire burneth, and yet feeleth not his owne force. The water beareth the shippes, and yet knoweth not the waight thereof. Al these serue onely to the glory of God, and benefit of man. Behold therfore, how neere God hath placed man vnto Himselfe: nay, what plentifull prouision Hee hath made for sustentation of this sensitiue life, and the necessarie use thereof. The sunne warmeth the earth: the earth nourisheth the plants: the plants feede the beasts, and the beasts serue man. So that the noblest creatures haue neede of the basest, and the basest are serued by the most noble: and all these by the diuine prouidence of God; wherein as there can bee nothing wanting, so thereunto there may be nothing added.

Now for the better discouerie of what dignitie, honour, aduancement, benefite, and supply this sensitiue life hath, by the use and imployment of REASON, which is an inseperable qualitie of the immortall soule, let vs descend a litle into the arts, whereby REASON doth supply the defects & miseries, which otherwise this life must abide; which in reason should moue the hearts of men to

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use these temporall blessings, in such a temporall measure, as they might supply and serue the turnes and vses of all the race of mankinde. As I meane not to euery one a like, so it is no equall sharing, that some should haue all, and others want. If wee consider but this one thing, that by the admirable reason of man in his first creation, he did sodainely giue all the creatures of God seuerall names, and still retained the memory of them when he had neuer seene them before, here began the arte memoratiue, and all other artes, which afterwards had almost perished, and beene confounded.

Hermes taking consideration of these things, saith; "The sun-beames of God are His actions: the sun-beames of the worlde, are the natures of things: and the sun-beames of man, are his arts and sciences." Whence should he learne, teach, or vnderstand this, but out of that reason which then remained, though imperfect and impayred. By which reason, he was led to acknowledge the diuinite and omnipotencie of God, being more then many men wil at this day acknowledge. But to proceede to the arts, albeit they are well knowne, yet let me recite some particulars. By reason, first the generall knowledge is attained. Then reason hath proportioned things into diuers parts: first, in consideration of their natures, & worthinesse: secondly, in consideration of their numbers and places: thirdly, in regard of their vses and employments. So hath reason left nothing vnproportioned which she hath set down, and concluded by arts & sciences. By Gramer, ye course of true speaking: by Retoricke the manner of perswasion: by Logicke, the true proportion of reasoning: by

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Musicke, true consent of harmony: by Arithmaticke, the proportion of numbering, adding, diminishing, augmenting, and diuiding: by Geometry, the manner of euen & infalible proportioning: all these come of REASON. The petty, nay rather the great helpes towards the effecting of these things; the inuenting, the making, and fashioning, of the tooles, instruments, and preparations that serue to these vses: the making of pen, inke, paper, letters, sillables, words, edge-tooles, notes of musick, slat, &c. cards, wheels, loomes, milles, the mecanicall arts of Weauers, Tuckers, Spinsters, Tailors, Smiths, Carpenters, Sawyers, Ioyners, with diuers other of ye like quality: all these and many others, haue bene drawn, taken out, & proportioned by ye noble & famous arts of arithmatike, & geometrie; which are neither so highly esteemed nor vnderstood, as they deserue: for the more neerer reason (with a reuerend care of ye Creator) searcheth into these causes, the more neerer doth it bring the soule of man to the principal Artifex and Maker of them. Let vs proceed a little further. By the motion of the sun, which surroundeth the world in 24 hours, they haue proportioned the circumference of the world, to be 360 degrees; they diuide euery degree, into 60. miles; with many other such diuisions, which I omit. By these arts, they haue found that the sun in the whole yeare, maketh her furthest point, both toward the North and South pole: and thereupon they haue diuided that time into xii. monethes. To euery of these twelue monethes, they proportion an appointed number of daies; to euery day 24 hours: to euery houre 60. minutes. And to reducing these learnings to one point or head,

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they proportion as wel Latitude and Longitude of place, as motion & passage of time: together with the influence and aspects of the planets and starres; in such sort, as if this mistery were vnknown in any man's vnderstanding, it were impossible to be found out. And because the sun passeth alwaies from the East to the West, and neuer fully reacheth to ye point of the north or south, they haue determined, & diuided the world into 5. seueral zones. The 2. remote parts of north & south, they call the cold parts: ye middle, they cal the hot or burning zone: the other two, are the temperate parts. To this they haue likewise added a girdle, that goeth ouerthwart the hot & two temperat zones: diuiding the same into 12. equal parts, ascribing a seueral lord or gouernor of these houses: limiting the sun 30 daies trauel, to passe throgh euery of these same: with many other admirable & necessary lernings. And out of these arts, it is well knowne, they haue truely set down the eclipses of the sunne and moone, the reuolution of the starres, stabilitie of the North and South poles, & the motion of the others: by which, all nauigation is maintained: the compasse, carde, & needle, proportioned; nay the ship it selfe, and all other buildings, both of land and sea, deuised, framed, & fashioned; all countries known and seuered, and euery man's possession diuided, one from an other. Astronomy, and Astrologie, haue taken their foundation there. And how much the Physitian's knowledges are increased thereby, or what defects they would finde by the want therof, let themselues iudge. But to be short: These arts are the onely and true directors of the whole course of men's liues, as wel in

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gouernment as obedience: in distribution, as well as in receiuing; for there being diuersitie of honours, places, dignities, and worthinesse, so ought there to be a measure and indifferency, in proportioning their contributions. Many thousands of admirable blessings would follow REASON, if measure and proportion were truely kept. For then should the King haue the supreme place; the magistrates, their due honour; the subiects true and equall iustice; and euery man his owne right, without controuersie, checke, or controlment. But originall reason is so weakened and impaired, that these things are not to be looked for. Men's natures are preuaricated, and intemperate disires so bent to disorder, that poore Queene REASON hath little place, and her proportions little esteemed, and lesse used. Reason of it selfe discerneth and concludeth, that the heauens are imbowed like a vault about the lower parts, and the lower parts, circumualated and incompassed within the heauens conuexitie. The earth, as the flower or planckes to goe vpon and retaine the massie bodies of men, and the mighty inuolued numbers of creatures, thereon residing; and the heauens as the wide drawne and large extended canopie, to couer all these, with many included essences and beings: all seruing to exercise Reason withall, the more fully to apprehend the incomprehensible greatnesse, goodnesse, & bountie of the Creator, and the worthinesse of man's originall creation. But as is before discouered, this perfection of reason & innocencie is lost; corruption is crept in, and taken vp right and true REASON'S roome: and had so much impaired, blemished, darkened, & obscured, Reason's faculties, that euen

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the arts themselues, were almost forgotten, & put to obliuion: & great labour hath bene used to reuiue, recontinue, and vphold, or make knowne these former arts and sciences.

Concerning this point, let vs take a short viewe of the beginnings of creatures. All things had a kinde of perfection, yet subiect to imperfections, as creatures, to a Creator's command. Then the first declination and laps, after the creation, which had ouerthrowne the sincere purenesse of reason. The feare of punishment, for that offence, had exercised man's reason with many incomberments, and caused a kind of decisting, to continue the rememberance of such parts of reason as then remained not vtterly ouerthrowne. Vnto which, I adde two other decaies: the ouerthrow of ye world by the floud, & accursednesse of the earth at that time. And the confusion of languages at the ouerthrowe of the Tower of Babel, being in manner art's destruction. For after this time in many parts of the world, arts and sciences were almost vtterly vnknown: & ther required a new time, first to learne & vnderstand languages, before arts could be taught; and few remained in life, that had the science of teaching, or at the least, for the dispercing of arts; for that there was no such common vse of letters, as of latter time, for that reason had not then discouered the art of printing: besides, the amazednes of that confusion of tongues, caused the inhabitants of the earth to dispose themselues into countries vnfurnished with other fruits, then such as ye earth of her owne accursed nature did produce: none such as were in the original creation; and so men had enough to doe to prouide themselues food & apparell for

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many hundredth yeers: so as beside the forgetting of the vse of arts, there scarce remained so much, as the vse of tillage and manuring of the earth, to succour and defend men's liues: by which meanes arts remained raked vp, as fire vnder ashes; not cleane extinct yet seeming not to bee: in so much as it is reported of these parts of the world, wherein as well the Greekes and other nations liue, that Philosophie was first discouered by Pithagoras: long after whose time the Romanes are holden to be ignorant thereof. Seneca saith, philosophie was not found out aboue one thousand yeares before his time. Socrates is said to be the first, that brought it from studie to practice: which is not much aboue two thousand yeares since: for which he is so holden in admiration, as he is said to haue brought it from heauen to earth: and thereby to haue taught men how to gouern themselues, and others: yet these learnings had the originalls before,[1] though they attributed them to Pithagoras, as the beginner thereof: arguing their owne ignorance: for Pithagoras learned his skil from Gonchedie, and of the Iewes: Plato of Sechnuphis: Endoxus of Conuphis: and al these of the disciples of Trismegestus: who out of his own bookes manifesteth, that he learned it of Moses. Thales[2] is said to be the first that taught in astronomy to the Greekes. It appeareth as wel by his own as other men's workes, that it was taught him by the Egyptians: & to the Egyptians, by the Caldeans. And if

[1] Plutarch in Isis & Osiris: Iamblichus in libro de misteriis. Cap i.

[2] Learcus in the life of Thales. Thales in his epistle to Pherecides.

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Belus as Plini reporteth, were the finder out thereof, yet hee hath the same from Abraham, in whose time he liued: wherein I obserue, that many contentions haue bene about the beginning thereof, to aduance the honour of their owne countries. But howsoeuer, it is most true, that the perfection of those sciences and arts were lost, & in manner put to absolute obscuritie and oblitiion. For it is said that Clearchus, who liued a thousand yeares after Moses, did visibly and with his eyes, see the Iewe of whom Aristotle learned his philosophy. And it is reported, Pythagoras and Plato had their learning from Mercurie's Pillars. So that the knowledge of these arts, sciences, and learnings, haue bene long discontinued in the world, before they were receiued: and specially to these latter parts of the world: for it is saide,[1] that for the obseruation of the eclipses of the sun & moone, Anaxxagoras was put in prison, and Protagoras was banished Athens. Nay, it was so obscured, that Thales is said to be the first that obserued the north starre: and that Pythagoras, first discoured the morning and euening starre to be all one: and the describing of the Zodiacke to go a skew. And that Solon, first found out the moon's reuolution to be within xxx. dayes: and that Archimedes out of many obseruations, made the first description of the spheres: and that the obseruation of the planets, was not discouered in many yeares after. In so much that it is said, that the very account of the yeare was vncertaine and confused, in those parts where he raigned and was emperour: which is

[1] Plin. lib. 2. Plutarche in the life of Niceas. Quintilian. Lib. 2.

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well knowne to be ouer the most part of Christendom. And it is absolutely resolued, that within much less then two thousand yeares, none of these partes of the world had quadrant dyal or distinction of houres, times, or places, upon any methode of learning; all which may very sufficiently shew, that the vnderstanding and arts, were in maner forgotten and left in obliuion: and yet notwithstanding alwaies remaining in it self, though blemished & obscured. And for the arts of arithmaticke and geometrie, they are fathered vpon Pythagoras, Endoxus, & Euclides; who wrote but in late time, in respect of Moses and Tresmigistes: but yet the same learning wil conclude y^t though the arts were obscured, yet they remained from auncient times, long before, and euen from the first creation. And as for Rome, with his great antiquity, they had no knowledge in physicke, vntill the consulship of Lucius Æmilius, and Marcus Liuius. At which time, Archagatus the Gretian, was made free of the cittie of Rome. Which sheweth that these barbarous partes of the world, had not till that time[1] recontinued or reuiued the worthie knowledge of honorable arts. But endeuouring to reduce my my purpose, to as short a conclusion as I may, I will omit further to dilate, concerning the original worthinesse of arts and sciences, and their necessary vses and emploiments; and hast to the next point, that offereth it selfe to be handled: holding this opinion, that the reason, depth, and necessarie knowledge of these arts, are knowne to fewe in these parts of the world. And that many

[1] About 20. yeares before Christ.

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haue an apparance of knowledge, and yet faile of the substance, which hath seduced and misled many men, and sundry matters, to the great wrong of right and true reason. Therefore giue me leaue to distinguish betweene things aboue nature, things naturall, and things against nature; which will giue great light to the point of this argument: and desire that men will not attribute to themselues, that knowledge of arts, whereof they are ignorant: and that the ignorant will not condemne the arts which they know not; for it is truely said; *Scientia non habet, inimicum nisi ignorantium.*

ESSAY VI: THINGS ABOUE NATURE, AND NATURALL.

BESIDES the former reasons, that it was long before this part of the world had the vndertaking & use of arts, which are the contriuers of ciuill gouernment & order, as reason hath composed, & disposed them, Cæsar, in his Commentaries saith, That in his time Germany was continually a forrest, wherein a man might haue gone fiftie dayes iourney, before he could see any end of it: and that the people thereof were sauage & beastly, offering their children in sacrifice to their imagined gods. Which caused that the Romanes in many yeeres after, durst not aduenture farre ouer into that countery: wherevpon it is conceiued, that all the auncient townes and cities, which stood vpon the

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riuer of Rheine and Danowe, toward France and Italie, were erected and built for defence against the Germanes. For euen in the time of Tacitus, liuing in the time of Nero, and sithens the Germanes, were a rude, ignorant, and ungouerned people. As these parts of the world were vnskilfull of the arts, so such as trauelled to vnderstand them, and were able to teach them, liued so farre as France, Italie, Spaine, Germany. And these north partes were scarcely knowne to them, as appeareth by Ephorus, the most diligent Historiographer of those ages. For he speaking of Spaine, or Iberia, writeth thereof, but as if it were one towne; which argueth he had slender knowledge thereof. It is written,[1] that Orpheus drewe the Greekes out of their forrests and fiens, about the time Troy was besieged. This worthy and famous seruice did Orpheus performe, by the arts, sciences, and skill he learned amongst the Egyptians; whereby first hee laid aside his owne sauagenesse, and after vndertooke to direct & gouerne others: which doth much aduance the estimation of these noble artes. It would require a long discourse, to set downe the diuers opinions of the dispearcing of arts, sciences, & gouernments.

Some affirme, Abraham first taught letters or characters. Others, father it vpon Moses, or at least, that hee first taught the Grammer. If it were discouered, to what perfection these things grewe, or how yong or greene they were, in the time of Zoroastres, Scyonians, Ogyges, Ninus, Amoses, Callisthenes, Ptolomie, the Hebrewes, the Chaldeans, Egyptians, Assirians, Medes, Persians,

[1] Thucidides Lib. 1: Orpheus in his Argonauts.

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and Phenicians; it would not much serue to excuse the countries, in those arts and sciences. For they not knowing our parts of ye world, could hardly informe them in their learnings, by reason of their vnknowne and remote parts.

Besides, it seemeth they were but in the beginning of the discouery of these arts. They vnraked the ashes, and opened the fire, and by the light which they tooke, many haue since lighted their candles. For it seemeth, their meanes of spreading abroad their learnings, was very hard, in that they were enforced to write their minds by characters; made vpon leaues, barkes, ryndes of trees, and stones: in so much, as it is written; That in Babilon certaine obseruations of stars, were written in tiles or bricks. By these it seemeth, that REASON deprived of her ornaments, hath striued to set vp, and erect Schooles and Vniuersities, for the reuiuing, and recontinuing of these lost or obscured sciences and worthy knowledges: for the well-ordering of men, families, kingdoms, countries, & nations, which in time by trauell, hath bene brought amongst vs, from the center or first place, where they were taught: being by coniecture of the learned, in Mesopotamia, the Mount Taure, or in the Wildernesse of Semar, where the arke first rested & Noah first landed, and inhabited.

It is saide by Viues, that Politian did spend his whole life, part in scanning whether he should pronounce Vergilius, or Virgilius: Carthaginences, or Carthaginiences, Primus, or Preimus. And despising all worthy sciences and orderly course of gouernment or rudiments, he spent the rest of his time, in making filthy Epigrams. I feare

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there is much time bestowed in this age, in as vaine & idle courses, which might be bestowed to the learning of better arts and sciences, more commendable for themselues, & more profitable for the common wealth. For if it be well obserued, what honourable exployts and famous acts haue bene brought to passe in the order of wars, in the gouernment of countries, and ciuill courses of life, appeasing of controuersies by these estimable sciences and arts, which the most wise haue euer had in admiration, as Tully concludeth.[1] That man saith he, that first gathered together dispersed men, was surely a great personage. So was he, saith Pythagoras, which first gaue names to things, and which compounded within a certaine number of letters, the sounds of mens voices, which seemed to be infinit; and which marked the courses and proceedings of the wandering stars: & which first found out corne, cloth, buildings, defences against wild beasts, and the rest of the things that make our liues the more ciuill. These things may be attributed to the nature of man's reason and reason of man's nature.

Things aboue the nature or reason of man.

But to make and create of nothing, so wórthy a creature as man is aboue nature: which Cicero considered, when he said: There was a certaine might or power, which had a care of mankinde, and which would not haue begotten him, to fall into the mischiefe of endlesse death, after he hath outworne the great and innumerable aduersities and toyles of the world: for, saith he, "We be not created by hazarde."

[1] Cicero in his first booke of Inuention, and in his first booke of Oratory.

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Which sheweth directly, that Cicero did reach into an vnderstanding that there was a greater blessing and perfection in the creation, then remained in the nature of man: for he conceiueth, that neither misery in this world, nor the mischiefe of an endles death, were the ends vnto which such worthy creatures were first made. His reason could extend to vnderstand a creating nature aboue nature. For he that maketh, cannot be the same thing he maketh: nor of the same quality: but of a farre more worthy. And so will I leaue to speake of this supernaturall cause, as the maker of the rest: and steppe lower to the next point, of things naturall.

Things naturall.

To bee briefe in this point, because the natures of things are in some sorte before discovered; I wil only touch some fewe points.

This great Worke-master and Creator of things and natures, hath appointed their kindes, natures, conditions, and effects: their increases, generations, and propagations: for hauing set the heauens in motion, they continually moue without ceasing: but in this, there is noe increase, nor generation.

There is still but one sunne and one moone: notwithstanding all the coniunctions since the worlde's beginning.

There are no more starres then were made at one instant.

And so these bodies were ordained to continue their first numbers, places, and motions, without increase: according to their true natures. And these motions proceed of nature it selfe. The earth bringeth forth the vegitatiue things, but not by generation. The sensitiue things increase by generation, all commencing from a beginning of

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things of their owne natures: which sheweth the worthinesse of this creation, and the admirable worke that so infinite numbers of things should bee made of nothing: and so admirably composed, and put in order by a Worke-master, that had neither matter, stuffe, instrument, model, nor patterne for the doing thereof.

Things against nature.

I MIND not to speak of the miracles that haue bene done in the times of the patriarks and prophets: The incarnation of Christ, His fasting, & other the works of God, in the old & new Testament, which are aboue our nature. But to touch these things that reason may descend into, it were against the nature of the sunne, to leaue his motion, or loose his light: or of the moone, to bring forth sons or daughters: The earth cannot be metamorphosed, or turned into an incorporiall substance, neither is it her nature to produce or bring forth beasts or men: for creation hath appointed euery kindes a seuerall manner of increase. The fowles of the ayre doe not bring forth swine, nor the tyger ingender doues, nor men beget bears or lyon: men cannot be gods. It is impossible for the soule of man to cease or giue off his being, & to be of the same nature. The hynd cannot bring forth egs, nor the ostridge be the dam of the roe bucke. Euery thing hath his appointed nature, which it can neither change nor leaue. And because we haue spoken before, of number, place, and time, let vs in this place consider what they are, or at least what they are not. The better to discouer their employments,

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they are not as is before recited, any matters, substances, natures, nor essences, in respect of themselues: neither haue they power to procreate or bring forth any thing. They are onely the vessels, engines, mouldes, frames or organs, wherein things are cast, fashioned, placed, sorted, and ordered.

Out of these, in respect of nature, can proceede nothing: no not so much as themselues, issue not, nor come not of themselues; but are respected, according to the motions, course, order, or number of creatures, that passe in, by and through them. If a man shall offer to bring vp the foxe whelpe, among the sheep, euen from the first time of his littering; it is neither the placing him among these creatures, nor the vse of time, will qualifie his greedy nature of deuouring his fellowes. The like may bee saide of all other creatures, and their kindes and natures.

It is against nature, for creatures of one kind, to destroy one an other; which is a great argument of preuarication of the nature and reason of man; in that they cease not continually and against nature, to worke one an other's confusion. Let vs proceed a little further & set these three, number, place, and time, to work simply of themselues: they neither ingender, nor bring forth any things: albeit, in them, and by them, that is, in their moulds, infinit numbers are generated and brought forth. Let vs sprinckle a fewe holy considerations in these causes, to make them the more sauery; least striuing to set our corrupt reason ouer high, we cast it to the dust. As in the first creation, it was against nature, that there should be any imperfection, or foule matter, or defect, created in

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man's nature; so now, nature being corrupted, & altogether polluted by disobedience, it is both against & aboue this corrupt nature, that any perfection should remaine in man; albeit, there are that maintaine a sparke or remnant of perfection, of the first originall nature, to remaine: whereby it may againe worke his former perfection. This is against corrupt nature; as much as to sunder & take apart wine from water, after it is once mingled; for no polluted thing entred into the substance, can afterwards be clensed from this polution: as ye dye wil neuer be taken cleane out of the white cloath. It is to be obserued, that Christ in ministring the sacrament of His blessed bodie and blood; first He brake the bread, and they eate it: and then Hee gaue the cuppe, and all was done, whilst He was really and personally amongst them.

It is vnnaturally holden, that they did really and naturally eate His very flesh, and drink his very blood. This is against nature.

First, it is against the nature of a sacrament, to be the thing which it representeth: or for the thing signified, to be the signifier or betokener of that which is signified. Then it is against nature, that Christ as He was very man, being present and personally among them, performing this office Himselfe, should at one instant be, & not be. For, as He was man, so was He local. Now to deliuer Himself, & to be eaten, and yet remaine in the same substance, of and by Himselfe, at the same instant, is against nature. Besides, that He should so exhaust or drawe His most precious blood, that when the bread (which they intend to be his real & manly body) was eaten, there should

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bee therein no parte of His bloud: and more, that Himselfe should be at one instant absolute man, & at the same instant, see Himselfe visibly eaten with the teeth of men, in distinct and seuerall places. This is against the nature of the manhoode, and so against both. For sacraments are not miracles, nor natures to bee changed. Besides, in miracles, things did not at one, and the same instant, containe two seuerall natures: nor one nature in two seuerall places: as in the miracle at the mariage: as long as the water remained water, it was not wine; and after it became wine, it was no longer water; neither was it wine and water, all at one instant, though turned in lesse then a moment; neither was it water in two seuerall places, nor wine in two places, otherwise then by diuiding it into seuerall cupps or vessells. I make bolde to giue a touch of this misterie, which I holde to be of deeper consideration then man's reason can reach into: which being a matter of spirit, cannot but be apprehended but by the eye of the same spirit, hauing regard to the second life before spoken of. Herein I obserue, if men be so bold to rack and straine these great matters, what is it that they will leaue vntempted in the lesse & meaner causes? In the cases of Alchemy there is some reason (though the opinion thereof hath ouerthrowne many men) for that they propone some matter to worke, and some course of natures for incorporating and increasing. But such as will graffe on a dead stocke, long seperated from the earth, a quicke graffe or impe, and expect that the same shall prooue a tree, is deceiued, for it is against nature. Likewise, if any man will sowe egges in the ground, or set

Alchemy.

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corne vnder a hen, hee will hardly finde either chickens, or haruest. In such sort are the natures of things tied to their particular sorts, and meanes of increase, that necessitie will enforce nature to vse her owne meanes, and manner of increase or generation.

An example of an vnnatural product.

LET vs proceed to an example. There is an opinion, that the earth would in time, bring forth all the mettals that are in her bowels, fully refined and pure, without phesies or drosse: but either the curse hath so weakened her naturall heate, or els she is not permitted her time of bringing forth her brood, which hath caused arts to try conclusions. If this be admitted, what will follow of the next question? In this case, though time be not agent, nor the passiue part thereof, yet you must giue this great bellied lumpe, time to worke to perfection, and bring forth her great litter, brorde, or spawne. But it will be answered, that Reason and Art, hath found a meanes, how to helpe Nature in this cause, and to supply the defect of heate by fire, for separating of the purer mettall from the drosse. Admit this, yet it must be yeelded, that these mines were substantially in the bowels of the earth: who in time as is affirmed, wold haue brought them forth: so as Reason and Art, had to work vpon. And in this case you must likewise giue Art and Reason, time to worke their effect, and that by degrees and meanes: so that Reason nor Art cannot worke, but vpon substances, and by meanes, which in the ensuing example is not allowed. Ther is great

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difference betweene the theoricke and practicke part of any thing: or between matter of bare imagination and conceipt, and matters of substance and truth: betweene words and actions: for a man by contemplation may behold many thousand places in a moment, and set down a thousand proportions in his minde in shorte time: conceiue a iourney of ten thousand miles by sea, with all the bowings and turnings; but come to action, and you shall finde another worke and labour to performe it. A man may by conceipt and in figures, set down ten thousand millions, to be deuided betweene a hundreth thousand men: but hee that shall come to action must haue mony in his purse; words will buy no meate in the market: neither will fantasie build churches, although it set downe the proportion & modell. Contemplation, conceit, and art, may plot & set downe, how or what to doe: but substance, matter and art, must performe the action. These words, 'a thousand pounds' written, wil not pay one penny; although art had found a way by letters to signifie or demonstrate such or any other sum. Arte hath found out by bills, bonds and specialities, to giue assurance for money: but when it commeth to payment, there must bee materiallie money, or valuable matter, to make satisfaction. It belongeth to Art onely, to proportion, but euentiall money must make satisfaction. By these it appeareth, that God hath prouided substantial matters to passe from man to man, or to be vsed by man. And Reason hath found out arts, to proportion & rate the same. Besides this, by the obseruations before remembred, ther are sufficient things created to serue the turne of men,

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in such liberall and plentiful sort, as they shal not need any new inuention to create or raise benefite by fantasie, imagination, or any new sought deuise, which wil deceiue like dreames: they are like witchcrafts & enchantments, seeming good, & yet in truth abhominable. Let vs in this poynt, consider one maine & principall vsage which Nature nor Art, can make to cohere with Reason. And that is, that money should produce and increase money: I would in this case willingly know, the father and mother of this newe increase. First let vs goe to the nature of the mettal, be it either siluer, or gold, and drawe from thence, what reasons we may.

This is the maine point against Nature.

How mony should produce monie.

After that the mettal is taken out of the earth's belly, it can no longer be her child, neither can she nourish or make it grow. And being once ripened, purified, and brought to perfection by art, that is, by fire: It can then neuer come againe, to be nourished by the earth: for that the mother, which is the sulphere, is drawne from it: and if you would put it againe into the earth, you cannot giue it such a mixture of elements, as to make it growe.

If the Alchimist can doe any thing with it, let him take the benefit for his labour: but I would not haue ignorant men troubled therewith. It is an art vnfit for them, and mee to deale with all.

But to come neerer to the point: there is a deuise that Time should cause money to yeeld increase: wherein they are driuen to vse the helpe and labour of man.

This will not serue the turne, that also it is vnnaturall; for albeit, the labour of

Vsurie.

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man may obtaine benefit: yet, *Re vera*, there is no increase of the qualitie, quantitie, or nature of the gold or siluer: but the vse that a man hath thereof, must make something deerer, and of more value, then nature or arte hath made it. For though art hath refined it, yet cannot art increase it: but here is the fallacie, a man is driuen thereby to purchase his owne labour, a very vnnaturall thing.

For by Nature and Reason, euery man's trauell should bee imployed, for the seruing of his owne necessarie turne.

This is one of the cases I spake of before: that men not contented with the things of God's creation, according to their owne values, will set God to learne, as if Hee knew not what Hee had done: and will adde further prouisions and meanes then euer was ordained of God. Out of these reasons, it may be concluded, that the raysing of increase vpon bare mony, is vnnaturall: and the meanes vsed to raise benefit thereby, is an other course then was originally appointed by God, and so directly against nature. The consideration whereof, ought not to be slightly regarded, because God hath left nothing vnprouided that is requisite for the vse of man.

The Lawe wronged.

But there are, that spare not to lay a very reproachfull ignomie on this kingdome, of the vse of employing, and disposing of mony, to benefit and great increase, aboue the principall, by the way of vsurie. And that the lawes of this kingdome, either alone, or at the least tolarate such taking of vsurie. See how reason and truth is wronged. In whose defence I am occasioned a little to digresse, &

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borrow leaue for a fewe words, touching that point. Cæsar forbad, that an Vsurer should be accounted a good or honest man. This vnderstanding in all likely-hood continued a thousand yeares after that. For Glanuile, chiefe Iustice of England, one of the ancienst Writers we haue, in the time of king Henry the second, censured the goods of an Vsurer, at the time of his death, to be confistcate to the king. The name hath beene so odious, that they were not admitted ciuill societie or Christian buriall.

I meane not to insist much vpon this point, and therefore I referre the Reader for his satisfaction, to peruse the margined Statutes:[1] wherein he shall finde the trade, to be holden accursed and damnable. The Trader is odious, and the use therof vtterly forbidden, by all the lawes that euer were made in this kingdome, concerning that matter. And whosoeuer will enter into true vnderstanding of the reason, whether it doth benefit or annoy, shall be driuen to confesse, a great devasting of the subiects estate therby: which in this place I meane not to handle. Yet seeing it is so repugnant vnto nature and reason, let me craue pardon to goe a little further in this matter: and vnder reformation, to expresse such reasons for confutation of an error, which I hold to bee maintained in this point, and furthered, and succoured vnder the shadow of a clause in the law: In which behalfe, because demonstrations are very fit courses to discouer the reasons, as well of actuall, as intellectuall things, I haue composed 2. Tables: The first, discouering the fallasie: and the second

[1] Statut. de Iudaifmo 37. H. 8. 9. 13. Eliza. 8. 35 Eliza. 7.

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the truth; which course I take, for that I finde falshood will euer vanish, when truth commeth in place. The point is this: It is holden that the lender vppon vsurie, may take at one month's end his principall, and a twelfth part for the vse, being the highest rate he might haue taken, if he had forborne his principall and vse money a whole yeare: and so for more or lesse time; so he take not his vse before the principall and his contract be not to continue after the taking of his use. As the point is hard to be discouered, so can I hardly admit my selfe to meddle therewith: whereby to open the way into this seeming labyrinth, which notwithstanding I hold to be plaine. Before I come to the Table, let me set downe the words that they build vpon. (37. Hen. 8. 7.) "No man shall take aboue 10. for the forbearance of 100. for one whole yeare, and so after the rate, and not aboue: of, or for a more or lesse summe, or for longer or shorter time: and no more greater gaine or summe thereupon to bee had." Although I meane not to handle this cause by the course of a law-argument, yet let me craue leaue, to see how Reason and Art will conclude in one truth. The law being to take construction most strongly and straightly for repressing of Vsury.

The like for 3. 6. or 9. Moneths, apportioning the vse, as if those were perfect times to diuide by.

The law it selfe is a prohibiting law, in no iote giuing libertie, but repressing. So are the wordes negatiue and forbidding; and vpon that reason, none of these words can be strained to make any tolleration. These wordes in the close of the sentence "And no more greater gaine, or summe thereupon to be had," do sufficiently explaine,

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that by no meanes 100. li. by any course to be put out, may yeeld aboue the gaine of 10. li. for a whole yeare: but 100. li. put out for 3. 6. 9. months, and the money and vse taken at that time, being within the yeare, may and doth yeeld a greater gaine then the rate of 10. li. for a whole yeare.

The reason is, the lender may againe dispose the same principal and vse, for more gaine within the same yeare: and so not saued by the words or meaning of the lawe.

Let vs see how reason can bring the former words to this conclusion. "And so after that rate and not aboue: of, or for a more or lesse summe: or for shorter or longer time." These words being in body of the clause, haue reference to a rate: which rate is before expressed; that the forbearing of 100 shall not raise aboue 10 pounds, for one whole yeare.

In this behalfe, the borrower is not respected, but the lender: for the words, are "No man shall take aboue 10. pounds," &c. Whereby appeareth, that as the law is made onely against the taker, so is there no libertie for him to take any thing, that may exceed that rate of 10. for a whole year. Otherwise, this mischiefe would ensue: the lender would depart with his monie, for one, two, or three moneths, to one man, and then receiue his mony and vse, and deliuer the same to an other debtor: and so monthly, or quarterly, or at his pleasure, raise his benefite vpon the vse of his vse mony within the yeare, contrary to the meaning of the lawe: by often receiuing & placing it within one yeare; which vnder correction, can by no meanes be construed to bee saued by the wordes of the lawe.

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A word or two, concerning the rate which I take to be double: a rate of mony, and a rate of time. These two, are specially to be considered: for seeing Nature cannot worke this matter, you must permit Time to doe what office it is enioyned to performe. To this purpose then, whether there be one or more takers, at one or more times, within the yeare, is not material: but ye respect is, seeing they haue nothing to raise this rate of money, but their industry, imployment, and labour, with a limitation of a rated time for the vse thereof: that they may have the fulnesse of all these without abatements. For the eye of Reason in this behalf, doth not regard how often the mony be letten within the yeare, nor to how many or fewe persons: but that the forbearing of 100. li. for a whole yeare, shall yeeld the lender no more or greater gaine then 10. li. And in this behalfe, is specially to be obserued, the seuerall offices of the lender and borrower. The lender departeth with his money vpon time, to raise his benefite: the borrower, bestoweth his labour, by merchandising the money, with diligence, in time to raise the increase vpon the vse of the money. If the lender will take away any part of the time, limited in the statute, he doth not then allow the full rate of time: and therefore of a consequent, hee ought to abate it out of the rate of his vse mony: for in this cause, those two, that is, the rate of time, for which the vse of time is forborne, and the rate of money taken for vse, must euer iumpe, to make the reckoning euen. And common and ordinary reason yeeldeth, that no man will giue so much for any thing to bee payed at the end of one moneth, as hee would, if his payment

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were forborne a whole yeare. Such is the plaine case, as it is now commonly vnderstood: that the lender, for one moneth, will take as much at the moneth's ende, as if he had forborne his vse a whole yeare. But I take it, this error hath grown out of a fallasie or mistaking in art, by some arithmatitian, that hath calculated this proportion by a wrong rule: not fully fitting this purpose. For I conceiue, it hath proceeded onely by the rule of diuision; when it should haue beene wrought, partly by diuision, and partly by addition: as the true consideration of the Tables will manifestly expresse.

Wherefore, in a word or two, let me remember againe the difference betweene contemplation and action. Any that worketh barely by conceit, may practise by conceite: but hee that will performe any act indeed, must haue matter and stuffe: figures and cyphers; make no summes of money. Therefore if the lender will haue consideration, he must dispose of his money and time: that hee, who wil haue mony & time, may the better giue consideration. In this cause therefore, the matter of art, & the point from whence I conceiue that error to arise, is to be looked into. It seemeth that the arithmatitians hath wrought only by diuision. In the first part of diuision there are two requisite things, a diuidende and deuisor, which in this case must be essenciall and substanciall, and not by conceit and imagination. Let vs see, mony must needs be the diuidend, and time the deuisor. Put the case a man lendeth a 100, li. for one month, what may the lender take? The arithmatitian saith, a whole yeere will yeeld 10. li. then he diuideth time, by time: one yeere into

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twelve parts: so that here time is both the diuidend and deuisor; then he diuideth mony by time: that is 10. li. by twelue months, & he findeth the 12. part of 10li. to be 16. s. 8. d. which he allotteth to one moneth. The rule is true, but not to be vsed in this case: for Reason the founder of art, will shew, that he hath no warrant to measure by this rule: in that he hath no essentiall deuisor: for if you marke it, hee wanteth 11. months of his yeare, at the time of his diuision. And so he worketh a substantial diuidend, of 10. li. by an imagined deuisor, of 12. moneths, when there is but one occurred: but his course should be, as in the case of contribution: the shorter time of forbearance of the vse, should not haue so large allowance as the longer.

Reason and Art, conclude with truth.

And on this point doth Reason and Art conclude, which are more plainely expressed in these ensuing Tables: the false being reproued by the excesse, and the true, raised from lesse to more at the rate of time, and vse of the mony giueth occasion.

I haue drawn these Tables, as patterns or modells to shewe and discouer, the truth from the false, and to manifest how truth and art still drawe to one period. I the more insist vppon this for my sole example, because it is a matter so directly against nature: and sophistically brought into the danger and ouerthrowe of mens estate: for all the world must confesse, that in this case, as hauing regard to matter of substance, nothing is enforced to produce some thing. And though I meant not to fill this place with law-arguments,

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yet let me borrow a word for further explanation of my meaning. Let vs see what the lender must doe, to rayse ten of his hundreth: hee must contribute towards the raysing thereof, a proportion of money, and a proportion of time. Of mony a hundreth to rayse ten: of time, one whole yeare. In this case as I said before, there is no respect of the borrower: well, then the lender is tied to both these contributions: so still the rate of his gaine must not exceed ten for the rate of a whole yeare of time. In this case the lender is tyed to his certainty. Then it followeth, hee can haue no election, differing from that rate of time which is the maine point. Let vs see what the borrower is to receiue and performe. In which is to be obserued, such a proportion of mony and time as may performe a ratable allowance: that the vse mony may not exceed tenne for a hundreth for a whole yeare: which performed, he is to render backe the mony borrowed: & as for vse, the law alloweth non. Let vs examine this by the rule of reason: In all natural causes, time must be abidden, for ye working & perfecting of al increase & growing: the beasts by nature knoweth the time of bringing forth their yong: the birds keepe their egs vnder their feathers, til an appointed time to produce chickens; the trees & herbs according to their sorts, require time for ye ripening of their fruits. The sun in the spheare of heauen, laboreth a whole yeare to bring himself to his reuolution. If all these, with many thousands of other things, stay their time by their naturall course, why should not the lender premit the full occurrency of time, for the raising of his benefit vpon a barren, fruitlesse, and vnnaturall subiect.

Contribution.

Election.

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Though many things offer themselues, yet I striue to be briefe. Obserue therefore these resemblances: In all manner of eateable fleshe, the tender lambe will not yeelde so much as the well growne sheepe: the yong veale, not so much as the full growne oxe. The young chick, late out of the shel, not so much as the henne or capon: and so of many other things that time causeth to increase, both in growth and price. Now if the owner will sell any of these in their tendernesse, hee must bee contented to abate of that he would require, if the same things were growne to more greatnesse. If this be so, then in reason there is more cause the lender shuld forbeare his whole time before hee receiue his consideration, howsoeuer hee doth his principall.

Things sold in tender age for want of allowance of time, are of lesse value then otherwise they would be.

Let vs touch a little the exceeding reason and vse the lawe hath, in some particular causes of time. Estates for yeares, must haue a certaine beginning and ending. Inheritances haue commencements vppon time: and limitted to the ende of time. So the first estates, determine in time: and the second being reall estates, onely with time: and not before the ending of time. Approbations and elections are concluded in time: things voideable, relye onely vpon time. All conditions are tyed vnto time. In the cases of *Cui in vita dum non fuit compos mentis;* special respect is of the time. All cases of entries vpon dissisors, to take away entries, are tyed vnto time. The cases that require continuall claime, are bound vnto time, with many others. But among the rest, let mee conclude with one or two, to discouer what time, ioyned with some other matter, doth both enable

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& disable: I meane not to vouch any case. It is not vnknown that one attainted by act of parliament, part of his lands sold: time and the act of parliament made the sale good. But this attainder being taken off by another acte of Parliament, and the former act made voide: time and the act of Parliament, did restore both the blood and the lands of the attainted & made their estates voide, which formerly were not. The lawe hath cleane taken away the time that was in the feoffe; & put the same solely into ceste q. vse: and so wrought vppon instants, that there is now no instant at all in the feoff, which before had the whole estate. Such a seruant is time, vnto the Law, and so assured is the law vnto time: that what contract soeuer it maketh therewith, shall be assuredly performed. In the case of inrolments, there is speciall prouision of time: wherein I make this short obseruation: that time doth worke, and vnworke, one and the same thing in nature according as time is employed. The King's tennant acknowledgeth a bargaine and sale of land, held in capite to another and his heires: before the deede be enrolled the bargainer dieth, his son within age. In this case, the sonne of this bargainor is ward. But the bargainie also dieth within the six moneths, &c. his son within age, & within the 6. moneths the bargaine, and sale, is inrolled. In this case, the son of the bargainer shall be out of ward, & the son of the barganie shall be in ward, by relation to time. I put these cases, onely to make knowne how flexible time turne and wind according to the employment it serueth, and how stoute and stiffe it is in some other cases, as the rules of law doth gouerne and

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direct it: and though this resemble not the case in all points, yet it sheweth, that in this behalfe, time is not to be disposed at ye election or choyce of any, but according to the true construction, scope & meaning of the law: which in this case is to be construed most strongly against the lender.

A word or two concerning this diuision of the mony & time. As I said before, in actuall things there must be a substantiall, naturall and present diuidend and diuisor, numerator, and denominator, as in these examples are apparant. A piece of timber is to be made into boords: in this case the timber is the diuidend, and the sawe is the diuisor. And of necessitie it followeth, that there must be actually and essencially, and a saw, or else there can be no boords.

There is a garment to be made: in that case, the cloath is the diuidend, and the sherres the deuisor, But for the performing of the worke, there must essencially be both cloath & sheers. There is a great piece of meate to bee diuided betweene many men: the meate is the diuidend, the knife is the instrument diuiding. There is a necessitie, both these should be present. Though I know there be other diuisors in these cases; yet I make these resemblances, to make plaine my demonstration of the necessitie of an essenciall diuidend and diuisor, at the time of the diuison. To resemble this, The lender at the end of one, 3. 6. and 9. moneths, hath not an essensial diuisor of twelue moneths, to warrant his diuision: and so diuiding substantiall mony by imaginarie time, doth erre in the ground of his art: and so hath proportioned a rate that is not warranted, either by Nature, Reason, Law, nor Art.

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ESSAY VII: REASON SHEWETH, THIS LIFE IS BUT AN APPRENTISHIP.

THERE are many other vsages whereof there can bee no account giuen, that they should proceed either of nature or vncorrupted reason. God is truth, and Hee hath made all things in, and by truth: and appointed them to continue in truth according to their creation. All the creatures sauing man, continue this originall perfection. Reason doth discerne and know, though it cannot correct the euasions and errors in the course of mens liues, different from truth: which mens consciences not voide of reason cannot deny. Caine though he would not denie the killing of his brother Abel, yet hee had learned to shift it and put it off, by asking whether he were keeper of his brother: his reason was corrupt, and his conscience did accuse him. Such as were sent with Iosua and Caleb, against their own knowledges did finde fault with the country which they sought; disswading their companions to enterprise the obtayning thereof.

The whole number of the Israelites felt the punishment of their credulousnesse, in following their false perswasions. Against false witnesses and corrupt iudgement, the storie of Susanna hath left sufficient testimony; against hypocrisie, the text of Ananias and Saphira; against periurie and subornation, the storie of Iesabell, Achab and Naboth; against treason, the storie of Corah, Dathan, & Abiram; against rewards and bribes, the storie of Gehasie; against fained excuses, the deniall of Peter; against presumption, the storie

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of the Tempter; against dispaire, the example of Iudas; against withcraft, the storie of Saule concerning the vision of Samuel; against incest, the example of one of the patriarkes; against rigor, and violence, the storie of Nimrod; against deceit, the storie of the vniust steward; against mercilesnesse, the text of the wounded man and the Samariain; against couetousnesse, the state of Diues and Lazarus; against inchantments, Symon Magus; against vndutifulnesse to parents, the curse of Cam [=Ham], for discouering his father's nakednes; against mistrust or fearfulnesse, the storie of Lot's wife; against disobedience to God, the foure first commandements; against vsury, & vnnatural raysing of mony and encrease by the way of lone, more then a hundreth expresse places of commandement forbidding it in the Holy Bible: accursing the vsers thereof & blessing those that forbeare & eschue it. And as for whore-mongers & adulterers, the text is plaine, "God will iudge them." The oppressors of the poore and vncharitable, are not left out of the number of those that shal receiue punishment. Moses, the prophets, & ye Decalogue haue left sufficient testimony what is like to become of these kind of people. And as for the vnbelieuers, if they escape vnpunished, let the text it selfe discouer. The hypocrites, I am sure shall haue their reward among the vniust. Why should I particular any more? we are all contained vnder sin; and iniquity hath gotten the vpper hand. Why should we by inuention, raise a new kind of supply, more than God or nature hath ordained, thereby to reproue His diuine prouidence or imperfection. Now then, to drawe to an end of this work, let vs compare the beginning with the end.

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Reason, I saide, is an essenciall part of the soule: the soule is immortall. Therfore Reason wil haue continuance after this sensitiue life shall finish; and is one of the principall parts that will discouer, take knowledge and participate either of beatitude or misery: of hell, or heauen: of saluation, or perdition. Is it not high time then, that Reason, which is in euery man's soule, and that euery soule being endued with reason: seeing such huge corruptions in the world, as are in manner vnspeakable, should now beginne to looke about to preuent these mischiefes, and imminent miseries, that daily & hourely are like to worke his destruction.'

Is it not time she should erect a Schoole, get Schoole-masters, and Hushers, to teach the daunger these creatures, partakers of reason, are run into? & vnder which they are like to perish? Hath she not good cause to discouer the difference between the sensitiue life; and the immortall reasonable soule? the shortnesse of these pleasures, & the euerlasting ioyes of heaven? The differences of the creatures, hauing reason, and those wanting? And the vses of them all: which no creature voyd of reason can looke into. Is it not time she should go about to subdue & keepe vnder, all the sensitiue powers, passions, affections, perturbations, inuentions, fantasies, and counterfeite seeming pleasures of these her subiects, to make them know themselues? lest by their stubbornnesse, she be pulled out of her better kingdom, wherof she is heire apparant: appointed to raigne with her elder brother, euen the Sonne of God, Christ Iesus Himselfe: the onely possessor and owner, of true, perfect, and vncorrupt Reason.

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What a worlde is this, to make more account of the iourney and trauel, then of the mansion and dwelling house? Well, give Queene Reason leaue to conclude, with the solution of this one question.

A yong man is at his choyce, whether he will be bound to serue certaine yeares, and then to bee free: or else to bee free for certaine yeares, and euer after to be a bondman, and in thraldom and misery. I know this question will readily be answered: it is better to smart once, then ake euer: and as long as there is hope of amendment, so long the paines are not very bitter: but when hope is past, then the heart is broken.

Such is the state of man; and such doth diuine Reason discouer, to bee the state of euery man, in respect of his double life: man hath but a kinde of seruitude or apprentiship in this temporal, or sensitiue life; tyed to couenants, services, precepts, conditions, and commandements. Which if he be carefull to obserue and keepe, he shall doe more then marry his maisters daughter: according to the phrase, & best preferment of merchants. For he shall be then ioynt inheritor with his Maister's sonne: and haue the fulnesse of freedome, felicitie and happinesse in a hauen and harbour where no custome is to be payed; no imposition, no giuing nor taking of money vpon credite; no bad nor desperate debts; no assurance for money, nor fraught of ships; no casting into prison, chaines, and yrons, disquietnesse, nor discontentment.

But on the contrary side, if this present life bee spent in vaine, vnhonest, lewd and vngodly exercises, practises, employments, without respect of performance of couenants, commandements, and bonds; then surely, as the immortall life is much

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more precious, then the mortall, or more sensitiue: so are the punishments more grieuous then the other; and so much ye more grieuous, because Reason vnderstandeth there is a felicitie, otherwise the torments of hell were nothing.

And for these causes, doth Queene Reason perswade and intreat euery reasonable soule, to enter into the closet of his owne conscience and heart, to schoole, informe, and instruct himselfe, concerning his owne good, & to be so charitable as to informe others thereof: which she holdeth to be an office of charitable dutie. And so to conclude, if euery man will be his owne schoolemaister & instructor, which she desireth, her Academie will bee wonderfull large: but principally, shee aduiseth the learning and instruction of her Creator, to be taught, followed, & put in practise: for thereby the number of God's saints will be increased, His glorie aduanced, and His triumphant kingdome replenished, with the company of holy and reasonable soules, after the sensitiue life ended, which God grant, for His mercie.

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REASON'S MOANE.

WHEN I peruse heauen's auncient-written storie,
part left in bookes, and part in contemplation;
I finde creation tended to God's glory:
but when I looke vpon the foule euasion,
Loe then I cry, I howle, I weepe, I moane,
and seeke for truth, but truth alas is gone.

Whilom of old before the earth was founded,
or hearbs, or trees, or plants, or beasts, had being;
Or that the mightie canopie of heauen surrounded
these lower creatures; ere that the eye had seeing;
Then reason was within the mind of Ioue,
embracing only, amitie and loue.

The blessed angels' formes and admirable natures;
their happie states, their liues, and high perfections;
Immortall essence, and vnmeasured statures,
the more make known their falls & low directions.
These things when Reason doth peruse,
She finds her errors, which she would excuse.

But out alas, she sees strife is all in vaine,
It bootes not to contend, or stand in this defence:
Death, sorow, grief, hell & torments, are her gaine,
And endlesse burning fire, becomes our recompence.

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Oh heauie moane! Oh endlesse sorrowes anguish,
Neuer to cease, but euer still to languish!

When I peruse the state of prime, created man,
His wealth, his dignitie, and reason;
His power, his pleasure, his greatnesse when I scan,
I doe admire, and wonder, that in so short a season,
These noble parts, should haue so short conclusion;
and man himselfe, be brought to such confusion.

In seeking countries far beyond the seas, I finde,
Euen where faire Eden's pleasant garden stood:
And all the coasts vnto the same confinde,
Gall to cruell wars, men's hands embru'd in blood;
In cutting throats, and murders, men delight,
So from these places, Reason's banisht quite.

O Ierusalem, that thou shouldst now turne Turke,
And Sion's hil, where holy rites of yore were vs'd;
Oh, that within that holy place should lurke
Such sacriledge: whereby Ioue's name's abusde.
What, famous Greece, farewell: thou canst not bost,
thy great renowme, thy wit, thy learning's lost.

The further search I make, the worse effect I finde,
All Asia swarmes with huge impietie:
All Affrick's bent vnto a bloody minde:
All treachers gainst Ioue, & his great deitie:
Let vs returne to famous Britton's king,
whose worthy praise, let all the world goe sing.

Great Tetragamaton out of thy bountious loue,
Let all the world and nations truely know,
That he plants peace, and quarrell doth remoue:

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Let him be great'st on all the earth belowe.
Long may he liue, and all the world admire,
that peace is wrought, as they themselues desire.

What vnion he hath brought to late perfection,
Twixt nations that haue so long contended:
Their warres, and enuies by him receiue correction,
And in his royal person all their iars are ended.
And so in briefe conclude, ought all that liue,
giue thanks to him for ioy, that Peace doth giue.

By power and will of this our mightie king,
Reason doth shewe it, that God wrought a wonder:
Countries distract he doth to vnion bring,
And ioynes together States which others sunder,
God grant him life till Shiloe's comming be,
In heauen's high seate, he may entronized bee.

Finis.

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III.

A Discourse of Law and Lawyers: with Appendix of Cases.

(1615.)

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LE PRIMER REPORT DES CASES ET MATTERS EN LEY

resolues & adiudges en les Courts del Roy en Ireland.

Collect & digest per Sr. John Davys Chiualer, Atturney *Generall del Roy en cest* Realme.

Liber librum aperit.

LONDON,
Printed for the Company of
Stationers, 1628.

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NOTE.

This most learned and eloquent Discourse of Law in general and of the Common Law of England in particular, forms the Preface in the shape of an Epistle-Dedicatory, to the following work:

LE
PRIMER RE-
PORT DES CASES
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Liber librum aperit.

DUBLIN,
Printed by Iohn Franckton
Printer to the Kings Most
excellent Maiestie
Anno. 1615 [folio]

A 2d. edn. was published in 1628 (folio) "London, Printed for the Company of Stationers." A 3d. edn. bears the date of 1674. Our text is that of 1628, collated with the first, 1615; the first furnishing various corrections of mistakes of the later edns.

It has not been deemed expedient to reprint the 'Cases' themselves; but there are added as specimens: (*a*) The historically important and memorable one in English, of PRÆMUNIRE. (*b*) A *verbatim et literatim et punctatim* reproduction of one of the odd French-written Cases complete, and quotable bits from the others. The whole of the Cases were translated into English and published in 1762 (8vo.) "Dublin: Printed for Sarah Cotter, under Dick's Coffee House, in Skinner-row" (pp 294). See our Memorial-Introduction in the present Volume for more on these Reports and this present very remarkable Discourse, and the LORD CHANCELLOR'S friendship with DAVIES; also Notes and Illustrations at the end of this Volume. G.

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TO THE RIGHT HONOVRABLE MY SINGVLAR GOOD LORD, THOMAS LORD ELLESMERE, LORD CHANCELLOR OF ENGLAND.

KING Henry the second (my most honorable good Lord) was the first King of England after the Norman Conquest, that was stiled Lord of Ireland. Yet are there no Records of that King's time remaining, wherby it may appeare, that he established any forme of ciuile gouernment in this Land. But it is manifest by many recordes and stories, that his sonne King Iohn made the first diuision of Counties in Ireland; published the lawes of England, and commanded the due execution thereof, in all those Counties which he had made; erected the Courts of Iustice; made the standard of Irish moneys equall with the English: briefely, he did order and settle the gouernment here in all points, according to the Modell of the Common-wealth of England. And to that end, when himselfe in person came ouer into Ireland the second time (which was in the twelfth yeare of his raigne) hee brought with him many learned persons in the lawe, and other Officers and Ministers of all sorts, to put the English lawes in execution; whereof there is a notable record in the Tower of London, 11. Henr. 3. Patent. Membr. 3. agreeing with

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that which is related by Math. Paris. histor. magn. fol. 220. b.

After which time the records of all legall Acts and Proceedings, namely the Pipe-rolls, containing the charge of the reuenue both Certaine and Casuall; the Plea-rolls, containing as well Common Pleas, as Pleas of the Crowne, Parliament Rolls, Charters, Patents, Commissions and Inquisitions, were made vp in good form in euerie King's time till the latter end of the raigne of King Henry the sixt; when by reason of the discension of the two Royall houses, the State of England neglecting the gouernment of this Realme, the Clarks and Officers grewe also negligent in the execution of their seuerall places. And though many of those auncient recordes haue beene embezeled, and many haue perished by carelesse keeping; yet diuers of all sorts doe yet remaine, as faire and authentique, as any I haue seene in England. Howbeit during all the time that the lawes of England haue had their course in Ireland, which is now full foure hundred yeares, there hath not beene any Report made and published of any Case in Lawe, argued, or adiudged in this Kingdome; but all the arguments and reasons of the iudgements and resolutions giuen in the Courts of Ireland, haue hitherto beene vtterly lost and buried in obliuion.

Which seemeth to me the more strange, because there haue beene within this Realme, in euery age since the raigne of King Iohn, men sufficiently learned in the lawes, who haue deriued their learning out of the fountaines of Lawe in England, the Innes of Court there (being the most flourishing and honourable Academy of Gentlemen, that euer

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was established in any nation, for the study and learning of the Municipall lawes thereof.) And therefore they might haue beene induced to imitate the learned men of England; who from the Norman Conquest downewards, did continually preserue the memory of such notable cases as did from time to time arise, and were argued and ruled in the Courts of Iustice in England; by reducing the same into bookes of Reports, which may be called, and not improperly, the Annalles of the Lawe.

For albeit our Reports at large, which are published in Print, do begin with the raigne of king Edw. 3, and the broken Cases of elder times, which are scattered in the Abridgements, are not found higher then the time of king Henry 3, yet assuredly there were other Reports digested in yeares and Tearmes, as ancient as the time of king William the Conquerour: as appeareth by that which Chaucer writeth of the Seriant at law:

In Termes had he Cases and Doomes all,
That fro that time of King William were fall.

Neither doth Glanuill or Bracton disaffirme this antiquity of the points of the Lawe, in that they affirme that the Law of England was *Ius non scriptum* in their times, as your Lordship hath noted in that most learned, graue, and prudent speech of yours, touching the Postnati of Scotland. For indeed those Reports are but Comments or interpretations of the Common Law; which Text was neuer originally written, but hath euer been preserued in the memory of men, though no man's memory can reach to the originall thereof.

For the Common Lawe of England is nothing

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else but the Common custome of the Realme; and a custome which hath obtained the force of a lawe, is always said to be *Ius non scriptum;* for it cannot be made or created, either by Charter, or by Parliament, which are Acts reduced to writing, and are alwaies matter of Record; but being onely matter of fact and consisting in vse and practise, it can be recorded and registed no where, but in the memory of the people.

For a Custome taketh beginning, and groweth to perfection in this manner: When a reasonable act once done, is found to be good and beneficiall to the people, and agreeable to their nature and disposition, then do they vse it, and practise it againe, and againe; and so by often iteration and multiplication of the act, it becommeth a Custome, and being continued without interruption time out of mind, it obtaineth the force of a law.

And this Customary Lawe is the most perfect, and most excellent, and without comparison the best, to make and preserue a Common-wealth; for the written lawes which are made eyther by the edicts of Princes, or by Counsells of Estate, are imposed vpon the Subiect before any Triall or Probation made, whether the same be fit and agreeable to the nature and disposition of the people, or whether they wil breed any inconuenience or no. But a Custome doth neuer become a law to bind the people, vntill it hath bin tried and approoued time out of mind; during all which time there did thereby arise no inconuenience; for if it had beene found inconuenient at any time, it had bin vsed no longer, but had beene interrupted, and consequently it had lost the vertue and force of a lawe.

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Therefore as the Lawe of Nature, which the Schoolmen call *Ius commune*, and which is also *Ius non scriptum*, being written onely in the heart of man, is better then all the written lawes in the world to make men honest and happy in this life, if they would obserue the rules thereof: So the customary Law of England. which we doe likewise call *Ius commune*, as comming neerest to the Lawe of Nature, which is the root and touchstone of all good lawes, and which is also *Ius non scriptum*, and written onely in the memory of man (for euery custome though it tooke beginning beyond the memory of euery liuing man, yet it is continued and preserued in the memory of men liuing) doth far excel our written lawes, namely our Statutes or Acts of Parliament; which is manifest in this, that when our Parliament haue altered or changed any fundamentall points of the Common Lawe, those alterations haue beene found by experience to be so inconuenient for the Common-wealth, as thatthe Common Lawe hath in effect beene restored again, in the same points, by other Actes of Parliament in succeeding ages.

And as our customary vnwritten Lawe doth excell our Parliament Lawes, which are written; so for the gouernment of the Common-weale of England (which is as well instituted and established as any Common-weale in Christendome:) our natiue Common-Lawe is farre more apt and agreeable than the Ciuill or Cannon lawe, or any other written Lawe in the world besides: howsoeuer some of our owne Countrimen, who are *Ciues in aliena Republica, & hospites in sua*, may perhaps affirme the contrary. But certaine it is, That the great and wise-men of England in the Parliament of

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Merton did not preferre a forreine law before their owne. When motion being made by the Clergie, that children borne before Marriage might be adiudged legitimate, they all made answer with one voice, *Nolumnus Leges Angliæ mutari*, and againe in 11. R. 2. when a new course of proceeding in Criminall Causes, according to the forme of the Ciuile law was propounded in that vnruly Parliament, answer was made by all the Estates, That the Realm of England neither had bin in former times, nor hereafter should be ruled and gouerned by the Ciuile Law: Rot. Parliam. 11. R. 2. in Archiu. Turræ.

And here I may obserue for the Honour of our Nation and of our Auncestours, who haue founded this Common-weale wherein wee liue, and enioy so many felicities; That England hauing had a good and happy Genius from the beginning, hath beene inhabited alwaies with a vertuous and wise people, who euer embraced honest and good Customes, full of reason and conueniencie; which being confirmed by common vse and practise, and continued time out of mind, became the Common Law of the Land. And though this Law bee the peculiar inuention of this Nation, and deliuered ouer from age to age by Tradition; (for the Common Law of England is a Tradition, and learned by Tradition as well as by Bookes) yet may we truly say, That no human Law, written or vnwritten, hath more certaintie in the Rules and Maximes, more coherence in the parts thereof, or more harmonie of reason in it: nay, we may confidently auerre, That it doth excell all other lawes in vpholding a free Monarchie, which is the most excellent forme of gouernment; exaltihg the

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prærogatiue Royall, and being very tender and watchfull to preserue it, and yet maintaining withall the ingenuous liberty of the subiect.

Briefely, it is so framed and fitted to the nature and disposition of this people, as we may properly say it is connaturall to the Nation, so as it cannot possibly be ruled by any other Law. This Law therefore doth demonstrate the strength of wit and reason, and selfe-sufficiencie, which hath beene alwayes in the People of this Land; which haue made their owne Lawes out of their wisedome and experience (like a silke-worme that formeth all her web out of her selfe only) not begging or borrowing a forme of a Common-Weale, either from Rome or from Greece, as all other nations of Europe haue done, but hauing sufficient prouision of Law and Iustice within the Land, haue no need *Iustitiam & iudicium ab alienigenis emendicare,* as King Iohn wrote most nobly to Pope Innocent the third: Matth. Paris. Histor. magn. pa. 215. *En populus sapiens & intelligens gens magna:* as it is said of God's chosen people, 4. Deut. Neither could any one man euer vaunt, that like Minos, Solon, or Lycurgus, he was the first Law-giuer to our Nation: for neither did the King make his owne Prærogatiue, nor the Iudges make the Rules or Maximes of the Law, nor the common subiect prescribe and limit the liberties which he inioyeth by the Law. But as it is said of euerie Art or Science which is brought to perfection, *Per varios vsus artem experientia fecit,* so may it properly be said of our Law, *Per varios vsus Legem experientia fecit:* Long experience, and many trialls of what was best for the common good, did make the Common Law.

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But vpon what reason then doth POLIDOR VIRGIL and other Writers affirme, that King William the Conqueror was our Law-giuer, and caused all our laws to be written in French? Assuredly the Norman Conqueror found the antient laws of England so honorable and profitable both for the Prince and people, as that he thought it not fit to make any alteration in the fundamental points or substance thereof. The change that was made was but in *formulis iuris*. He altered some legall formes of proceeding, and to honor his owne language, and for a marke of conquest withall, he caused the pleading of diuers actions to bee made and entred in French, and set forth his publike Ordinances and Acts of Councell in the same tongue; which forme of pleading in French continued til 36. Ed. 3. when (in regard that the French tongue began to grow out of vse, which for many yeares atfer the Norman Conquest was as common as the English among the Gentrie of England) it was ordained by Parliament, That all pleas should be pleaded, debated, and iudged in the English tongue, and entred and enrolled in Latine. And as for our Statutes or Acts of Parliament, the bills were for the most part exhibited in French, and passed and enrolled in the same language euen till the time of King Henry 7. And so are they printed in Rastal's first Abridgement of Statutes, published in the yere 1559. But after the beginning of King Henry 7 his raign, we find all our Acts of Parliament recorded in English. Onely our Reports of the cases, resolutions, and iudgments in the Law, whereof our books of the Law do consist, haue euer vntill this day bin penned and published in

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that mixt kind of speech which we cal the Law French, diffring indeed not a little from the French tongue, as it is now refined and spoken in France, as well by reason of the wordes of Art and Forme, called the Termes of the Law, as for that we do stil retain many other old words and phrases of speech which were vsed 400 yeares since, and are now become obsolete and out of vse among them, but are growne by long and continual vse, so apt, so natural, and so proper for the matter and subiect of these Reports, as no other language is significant enough to expresse the same, but onely this Law French wherein they are written.

And this is the true and only cause why our Reports and other books of the Law, for the most part are not set forth in English, Latine, or the moderne French, for that the proper and peculiar phrase of the Common Law cannot be so well exprest, nor any case in Law be so succinctly, sensibly, and withall so fully reported, as in this speech; which is indeede mixt and compounded of all these three languages. Which reason hath not bin wel vnderstood by those, who obiect it as a fault to the Professors of our Law, that, forsooth, they write their Reports and books of the Law in a strange and vnknown tongue which none can vnderstand but themselues; to the end that the people being kept in ignorance of the Law, may the more admire their skill and knowledge, and esteeme and value it at a higher price. As Cicero in his first book *de Oratore* doth testify, that the like conceit was held of the first Professors of the Ciuile Law, *Quia veteres illi qui huic scientia præfuerunt, obtinendæ atque augendæ potentiæ suæs caua,*

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peruulgari artem suam noluerunt. And Cæsar speaking of the Druides, who were Iudges and Interpreters of the Law among the antient Brittaines, doth report of them, that though they spent twenty yeares in the studie of those Lawes, *Non existimabant fas esse ea literis mandare.*

But the weakenes of this obiection against the authors of our Law-books will easily appeare, if we consider how easie the Law-French is to be learned: insomuch that the meanest wit that euer came to the study of the Law, doth come to vnderstand it almost perfectly within ten dayes without a Reader. So as we do not seale or locke vp the mysteries of our Law in Hieroglyphickes, or in a darke Language that cannot be vnderstood: but wee expresse the Cases, Arguments, and Iudgements of the Law, in a forme of speech, so plaine, so significant, and in a tongue so soone learned by any man that can speake English, and vnderstand Latine, as I dare say, there is no rationall science in the world, hauing so many words and Termes of art and forme, that is so cleerely deliuered in any language. And I may truly say withall, that if the bookes of our Law were all translated into English, they would not bee better, nay, they would not be so wel vnderstood by the Students thereof, as in this proper and peculiar language wherein they are now written.

And as this obiection touching the speech or language wherein our Reports are penned, doth arise out of ignorance of the cause thereof, as is before declared; so are there other vulgar imputations cast vpon the Law and Lawyers, which may be as easily cleered, as hauing indeede no other ground but the meere misunderstanding of such

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as are strangers to the Profession: namely 1. That there is much vncertaintie in the reasons and iudgements of the Law. 2. That there are extreame and vnnecessarie delayes in the proceedings of the Law. 3. That many bad and dishonest causes are wittingly defended by the professors of the Law. But, *Sapientia instificatur a filiis suis.*

1. Therefore first touching the incertaintie of the Law; Certaine it is, that Law is nothing but a rule of reason, and human reason is *Lesbia regula,* pliable euery way, or like a cup with two eares, as the French prouerb is; which may be taken vp on either side, as well with the left hand as with the right; so as not onely the knowledge of the Law, but all other rationall Sciences that are subiect to Argument and Discourse, must needs be subiect to vncertaintie and to error: and therefore vpon Iudgments giuen in our Ordinarie Courts of Iustice, the Law doth admit and allow Writs of Error to be brought, without any touch or dishonour to the Iudges, though their Iudgments be reuersed for error in point of Law.

Howbeit there is no Art or Science that standeth vpon discourse of reason, that hath her Rules and Maximes so certaine and infallible, and so little subiect to diuers interpretation, as the Common Law of England, as it is obserued by the Lord chiefe Iustice Coke, in his Preface to the second part of his Reports, "That in all his time there haue not beene mooued in the Courts of Iustice in England, two questions touching the right of discents or escheats, or the like fundamentall points of the Common Law: so certaine, sure, and without questions are the principles and grounds thereof."

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But whence then do so many debates and controuersies arise? whereupon do we plead and contend so much in the courts of Iustice, if there be so few doubts and vncertainties in Law? Doubtlesse this question is soone solued by one plaine and common distinction. In all the causes that are controuerted there is either *Quæstio Iuris*, or *quæstio facti*. But for one cause wherein a question of Law doth arise, that is indeed worth the debating, there are a thousand causes at least, wherein the fact is only in question, and wherein if the truth of the fact were knowne, the Law were cleere and without question. So as the pleading and contention in Westminster-Hall and the rest of the Courts of Iustice in both realmes, is for the most part touching matters of fact: In the Chancerie, whither there be trust, or no trust, fraud or no fraud: In the Star-chamber, whither a riot or no riot, forgerie or no forgerie, periuirie or no periuire: and the like matters of fact, come only in all other Courts which proceed to the hearing and determining of causes by examination of witnesses. And in the Courts of Law where the triall is by Iurors, are there not a thousand issues ioyned vpon matters of fact, for one demurrer that is ioyned vpon a point in Law? and when all these issues are tried at the Barre or at the Assises, how many hundreds of generall verdicts are there giuen, which determine matters in fact, for one speciall verdict whereupon do result questions in Law.

And againe, of all the questions in Law which doe arise vpon demurrers or speciall verdicts, or which are mooued in arrest of Iudgement, how many of them are there ouer-ruled vpon the first opening or putting of the Case? and how few of

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them are there that are malleable, or can endure the hammer, so as they come to be solemnly argued at the Barre and at the Bench? As for the Exchequer-chamber cases, which are of such difficulty as they draw an assemblie of al the Iudges of the Law for the resolution thereof; they are so rare, as scarce twice in a yere are those Iudges drawne out of their proper Courts to deliuer their opinions vpon those doubtfull points. So as it is to be ascribed to the great learning, wisdom, grauitie, and constancie of our Iudges, and to the certaintie, and excellent harmony of reason in our Law, that there are no more diuersities of opinion among the Iudges, or doubtfull questions in the Law, than there are.

For if the Rules and Maximes of the Law were a thousand times as many as they be indeed, yet would they carry no proportion with the infinite diuersitie of men's Actions, and of other accidents which make the Cases that are to be decided by the Law. Besides, it must be a work of singular iudgement, to applie the grounds and Rules of the Law, which are fixed and certaine, to all human acts and accidents which are in perpetuall motion and mutation.

And therefore, we may truly say for the honor of our Law, notwithstanding the vulgar imputation of incertainty, that the iudgement and reason of it is more certain than of any other human Law in the world: as well because the grounds of our Common Law haue from the beginning bin laid with such deep wisdome, policie, and prouidence, as that they do prouide for and meet with, almost all places that can possibly fall out in our Commonwealth; as also because all those grounds are so

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plaine and so cleere, as that the Professors of our Law haue not thought it needfull to make so many glosses and interpretations thereupon, as other lawes are perplexed and confounded withall; which glosses, as one doth well obserue, "do encrease doubt and ignorance in all Arts and Sciences." And therefore the Ciuilians themselues confesse, that their law is a sea full of waues, the text whereof being digested into so many volumes, and so many Doctours interpreting the text, and twice as many more commenting vpon their interpretations, and so glosse vpon glosse, and booke vpon booke, and euery Doctour's opinion being a good authoritie fit to be cited and vouched among them, must needs breed distraction of opinions, and vncertaintie in that Law. The like may be said of the Canon Law, albeit the Text thereof bee scarce foure hundred yeares old. But of the Professors of our Law, who euer yet hath made any glosse or interpretation vpon our Master Littleton? though into that little booke of his he hath reduced the principall grounds of the Common Law, with exceeding great iudgment and authority, and with singular method and order? and yet if he had been an author in the Ciuile or Canon Law, I dare say, there had bin, by this time, so many Comments and glosses made vpon him, as the bookes written vpon this booke only, would haue bin more in number than all the volumes of our Law at this day.

But the learned men in our Law haue ever thought, that Littleton being a learned and reuerend judge, wrote with a purpose to be vnderstood, and that therefore another man, especially if he were of lesse learning than he, could hardly

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expresse him better than hee hath expressed himselfe. And therefore his book hath euer bin read of our yongest Students, without any Commentarie or interpretation at all.

But for all this, it is obiected that our latter iudgments do many time crosse and contradict the former, directly, in one and the same point of Law; which is a manifest argument of incertaintie in the Law.

Assuredly, there are verie few precedents of such contrarie Iudgments, scarce two in one age. And yet if the reasons of the later Iudgments did appeare of Record, we should find them grounded vpon mischiefes and inconueniences arising since the former Iudgments, or vpon other weightie considerations respecting the good of the Commonwealth in generall. Otherwise there are no Iudges in any State or Kingdome vnder the sun, that do more reuerence the opinions and Iudgements of their predecessors, than the Iudges of England haue euer done, as your Lordship, for their honour hath obserued, in that most worthie speech of the Postnati; wherein among other things, your Lordship doth note the memorable saying of Askue, 37. Hen. 6. fol. 22. Such a Charter hath been allowed in the time of our predecessors, who were as sage and learned as we be; and of Markham, 4. Ed. 4. fol. 41. It is good, saith he, for vs to doe as it hath been vsed in former time, and not to keepe one way one day for one partie, and another day the contrarie for the other partie: the former precedents are enough for vs to follow.

But on the other side, let vs heare what a learned Canonist *Lodouicus Gomez in regula de*

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Triemali possessore cap. 5, is bold to say, *Non est inconueniens* (saith he) *iudicium esse vno tempore iustum, & postea eius contrarium iustius: & hoc malum videtur imponi mortalibus in pœnam, vt eorum opiniones secundum varietatem temporum senescant & intermoriantur, aliæque diuersæ vel prioribus contrariæ renascantur & deinde pubescant. Talis enim est humani iuris disciplina, vt nulla in ea opinio eodem statu diu stare possit. Dies diei eructat verbum, & nox nocti indicat scientiam.*

And againe, *Opiniones hominum eorum corpora sequuntur, quæ cum tempore vetarascunt & pereunt, & sicut rerum omnium, itaq, quoque & opinionum est quædam vicisitudo.* And in another place, *Stilue hodiernus propter maiorem temporum experientiam videtur magis iure fundatus, & ideo solet dici quod moderni sunt sicut Culices in capite Elephantis, quæ vident priora & posteriora: quanto Iuniores tanto perspicatiores.* And thus much may suffice to be spoken, to remoone that scandall of vncertainty, which Ignorance doth vnworthily cast upon the Common Law.

2. But if the reason and iudgement of our Law be so little subiect to vncertainty, how commeth it to passe that the proceedings of our Law are so much subiect to delay? for this is another vulgar obiection against our Law and the professours thereof. But who are they that make this obiection? haue they themselues been ingaged in any suits of importance? haue they passed through the Courts of Iustice either in course of Law, or in course of Equity? If they haue not, they speak but by hearesay, and then their testimonie in this behalfe is of little credit. If they haue had any long-depending suits of their own, then

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let them examine whither their own spleen and wilfulnesse, or the corruption of some needie solicitors, (who picke their liuing out of the businesse they follow, and are loath to quench the fire that maketh them warme) haue not rather drawn their causes to an extraordinary length, than the ordinary processe of Law, or the aduice of learned Councell. For such as are learned Councellors indeed, are like good Pilots, who though their skil be best tried in a long and difficult voyage, do rather desire faire weather, and a speedie arriuall with their passengers in the hauen.

But the troth is, it is the stomacke or malice of such clients as will not sticke to say, That they will spend all they are worth to haue their will of their aduersaries, (and therefore will not be satisfied with any iudgement or decree) that doth produce and prolong suits in Law; who when their learned Councell indeed do refuse to nourish that peccant humor in them, do seek out discarded Impostars or Idolls, of whom there is an opinion among light and ignorant people, of extraordinary cunning and sleight in carrying of businesse with aduantage, and in curing of foild and desperat causes. These men giue them councell according to their owne heart, because they sooth them in their litigeous humor: howbeit in the end, when they haue wearied and wasted themselues, they find how weak those wiles and crafty courses are, and learn of Esop, that that one only plain way which the Catte had to escape from the Dogges, was better and safer than those hundred trickes of euasion whereof the Foxe did vaunt before he was taken: and they find withal the saying of Cicero true, *Ignoratio iuris litigiosa est potius quam scientia.*

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Besides this malignant and vnquiet disposition of many clients, there is another cause why suits are not brought so soone to an end as perhaps they were in former ages: namely, the multitude of causes now depending in euerie Court of Iustice: euerie of which causes must haue conuenient time allowed, as well to prepare it and make it right to be heard or tried, of for the triall and hearing it selfe. And the true cause of the multitude of causes doth proceed from this, that the commodities of the earth being more improoued, there is more wealth, and consequently there are more contracts reall and personall, than there were in former ages. Besides, there is more luxurie and excesse in the world; which breedeth vnthrifts, bankrupts, and bad debtors; more couetousnesse and more malice, which begetteth force and fraud, oppression and extortion, breach of the peace, and breach of trust. Out of these fountaines innumerable suits doe spring, which make the Courts of Justice so to swel; and hence it is that our statute Laws since Hen. 8. his time, doe make vp so great a volume; and hence it is that the professors of the Law are growne withall to so great a number, for where there is *magna messis* there must of necessity be *operarij multi*.

Indeed, if wee all liued according to the Law of nature, wee should need few laws, and fewer lawyers. 'Do as thou wouldest be done vnto' were a rule sufficient to rule vs all; and euery man's conscience would supply both the place of an aduocate and a iudge, and then we should haue no costs of suits, nor delay of proces.

And againe, if we were a poor and a naked people, as many Nations in America be, we should

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easily agree to be iudged by the next man we meet, and so make a short end of euerie controuersie. When the people of Rome were little better than sheepheards and Heardsmen, all their laws were contained in ten or twelue iuorie tables: but when they became lords of all the world, what a world of books was there written of the Roman Ciuill Law? The like we see in euery Commonwealth, when it once begins to flourish and to grow rich, and mighty; the people grow proud withall, and their pride makes them contentious and litigeous, so as there is need of many lawes to bridle them, and many officers to execute those lawes, and many Lawyers to interpret those laws, and al little enough: as when a body grows full and grosse it needs more physick than when it was leane.

And yet though our suits and causes be very many, and our Courts of Iustice all but a few, whereby it must needs come to passe, that euery particular business moouing in his turne must haue the slower motion; yet if we compare our legal proceedings with the proces of other kingdomes and commonweales (especially in France,) we shall find that according to the vsual clause indiuers writs, we haue indeed, *plenam & celerem justiciam*, (though the briefest justice be not alwaies best) and that our causes for the most part being orderly pursued, may come to a period in a yeare, with the course of the Sun, when there are many processes in forreine countries, that seeme to be gouerned by Saturne, which planet doth scarce finish his course in the space of thirtie yeares: as Bodin doth testifie of his own country, that there were more suits in Law depending in

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France, than in all Europe besides, and that many of those causes were a hundred yeares old: as that of the county of Rais (saith he) which suit hath been so well entertained in all the Chambers of Iustice, as albeit the parties that began it are long since dead, yet the suit it selfe is still aliue. Besides, we haue not so many Appeales, not so many reuiewes of causes, as the Ciuile and Canon Lawes do admit; neither haue we at this day so many delaies by essoines, vouchers, and protections, as were in use in former ages, when titles of land were tried onely in actions reall, which are now growne almost out of use, and a more speedy course of trial inuented by mixt and personall Actions.

Lastly, there is no Nation in the world (I speake for the honour of our nation and of our Land) that hath a course of Iustice so speedy, and withall so commodious and easie for the subiect, as our trialls by Assise and *Nisi prius* are. For what Kingdome is there vnder the Sun, wherein euery halfe-yeare the publicke Iustice doth make her progresse into euery part thereof, as it doth in the Kingdomes of England and Ireland? whereby it commeth to passe, that whereas the people of other countries do trauell far to seek Iustice in their fixt and setled Courts, as it were at fountaines, or cisternes, the streames of Iustice are deriued vnto our people, and brought by conduit pipes or quils, euen home as it were to their own dores.

And thus much I thought fit to obserue for the cleering of that vniust imputation of long and vnnecessary delaies in our legall proceedings.

3. But there is yet another exception against the professors of our Law, namely, that wittingly

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and willingly they take vpon them the defence of many bad causes, knowing the same to bee vniust when they are first consulted with and retained. And this is obiected by such as presume to censure our Profession in this manner. In euery cause betweene party and party (say they) there is a right, and there is a wrong; yet neither the one party nor the other did euer want a Councellour to maintaine his cause. This may be true for the most part, and yet in truth the learned Councell whose fortune it is to light on the wrong side may bee free from imputation of any blame. For when doth the right or wrong in euery cause appeare? when is that distinguished and made manifest? can it bee discouered vpon the first commencement of the suit, and before it bee knowne what can be alleaged and prooued by either partie? Assuredly it cannot: and therefore the Councellor when he is first retained cannot possibly iudge of the cause, whither it be iust or vniust, because he heares onely one part of the matter, and that also hee receiues by information from his Client, who doth euer put the case with the best aduantage for himselfe. But when the parties haue pleaded and are at issue; when they haue examined witnesses in course of equitie, or bee descended to a triall in course of Law; after publication and hearing in the one cause and full euidence deliuered in the other; then the learned Councell of either side may perhappes discerne the right from the wrong, and not before. But then are the causes come to their catastrophe, and the Councellors act their last part. And yet vntill then the true state of the cause on both sides could not possibly be discouered.

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If then the causes that are prosecuted, doe for the most part hang in a doubtful ballance, vntil the hearing or trial therof, (for if a cause be vndoubtedly and apparently naught on the one side, no man is so vnwise as to follow it to the end, with the expence of mony and hazard of his credit) how can it be iustly said, that the Councellor against whose Client a Decree or Verdict doth passe, hath wittingly defended an vniust cause, when he wist not how the ballance would incline, vntil he had made his vttermost defence? Howbeit if any of our Councellors do either in the prosecution of their Clients' causes giue sinister and crafty councell, or vpon the hearing or triall thereof, make an ouerbold defence of any dishonest action, our Iudges are so tender and iealous of the honor of our Profession, as they lay a note of infamie vpon such persons, so as they seldome or neuer after are permitted to rise to any higher degree in the Law, or any office of trust in the Common-Wealth.

Whereby it commeth to passe, that no men of any other calling or profession whatsoeuer, are more carefull to preserue their good name and reputation, and stand more precisely vpon their good behauior, than the learned Professors of the Common Law.

And as our Iudges do discountenance bad Councellors, so doth our Law abhorre the defence and maintenance of bad causes, more than any other Law in the world besides. For by what other Law is vnlawfull maintenance, champertie, or buying of titles, so seuerely punished? By what other Law doth the plaintife *pro falso clamore*, or vniust vexation, or the defendant for pleading a false plea, pay an amerciament or fine to the

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publicke Iustice? And this is one cause, among others, why our Law doth not allow Councel vnto such as are indicted of treason, murder, rape, or other capitall crimes. So as neuer any Professour of the Law of England hath been knowne to defend (for the matter of fact) any Traitor, Murdrer, Rauisher, or Theef, being indicted and prosecuted at the suit of the King. *Turpe reos empta miseros defendere lingua*, saith the Poet, and therefore it is an honor vnto our Law, that it doth not suffer the Professors thereof to dishonor themselues (as the Aduocates and Orators in other Countries doe) by defending such offendours. For example whereof we haue extant diuers Orations of Cicero, one *pro C. Rabirio per duellionis reo*, another *Roscio Amerino*, who was accused of Parricide, and another *pro Milone*, who was accused of Murder.

But good Lawiers haue not with vs that liberty which good Physitians haue: for a good Physitian may lawfully vndertake the cure of a foule and desperate disease, but a good Lawyer cannot honestly vndertake the defence of a foule and desperat cause. But if he fortune to be ingaged in a cause, which seeming honest in the beginning, doth in the proceeding appeare to be vniust, he followeth the good councel of the schoolman *Thom. Aquinas* 22. Quæst. 71. art. 3. *Aduocatus si in principio credidit causam iustam esse, quæ postea in processu appareat esse iniusta, non debet eam prodere, vt scilicet alteram partem iuuet, reuelando causæ suæ secretas: Potest tamen, et debet causam deserere, vel eum cuius causam agit, inducere ad cedendum, siue ad componendum, sine aduersarii damno.*

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And thus I conceiue, that the most common and colourable exceptions which are taken against our Law and Lawyers, may be answered and cleered by the plaine reasons and demonstrations before expressed: so as our profession may stand and be iustified in all points against Ignorance, Enuie, and ill-contented suitors, who like cholericke Chesse players, when they haue had a mate giuen them, could find in their hearts to cast both the Chessebord and Chessemen into the fire.

These vulgar errors being thus reuersed, so as we may truly say, that there is no such vncertaintie in the rules of the Law, no such delay in the proceedings, no such preuarication or corruption in the Professors thereof, as it is by some vniustly pretended: why may we not proceed further, and affirme confidently, that the profession of the Law is to be preferred before all other human professions and sciences, as being most noble for the matter and subiect thereof, most necessary, for the common and continuall vse thereof, and most meritorious, for the good effects it doth produce in the Common-Wealth?

For what is the matter and subiect of our Profession but Iustice, the Lady and Queene of all moral vertues? and what are our Professors of the Law but her councellors, her secretaries, her interpretors, her seruants? Again, what is the King himselfe but the cleere fountain of Iustice? and what are the professors of the Law but conduit pipes deriuing and conueying the streams of his Iustice vnto all the subiects of his seueral kingdoms? so as if Iustice be rightly resembled to the Sun in the firmament, in that she spreadeth her light and vertue vnto all creatures: how can she

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but communicate part of her goodnesse and glorie vnto that science that is her handmaid, and waits vpon her? And if Kings be "God's schollers" (as Homer writeth) and that the rules of Iustice be their principall lesson; and if God do honor Kings with His owne name, *Dixi quod Dij estis*, (as a more diuine Poet than Homer singeth) especially for that they sit vpon God's owne seate when they minister iustice vnto the people, do not kings again highly honor those persons, whose subordinat ministry and seruice they use in performing that principal part of their kingly office? Vndoubtedly, touching the aduancement of such persons, SALOMON the King speaketh, that they shal stand before Kings, and God will set them (saith Dauid) with "Princes, euen with the Princes of His people."

Neither is this Profession ennobled in regard of the dignitie of her employment only, but she is to be honoured so much the more for the necessitie and continuall vse of her seruice in the Common-Weale. For if we must honour the Physition *propter necessitatem*, as the wise man prescribeth; much more must we honor (for the same cause) the Professors and Ministers of the Law. For neither doth all men at any time, nor any one man at all times, stand in neede of the Physition: for they that are in health (which are the greatest number of men) *non egent medico*, saith the great Physition of our soules, and our only Aduocate which is in Heauen; but all men at all times, and in all places do stand in need of Iustice and of Law, which is the rule of Iustice, and of the Interpreters and Ministers of the Law, which giue life and motion vnto Iustice.

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For do not al persons stand in need of Iustice, when without her rule the Prince himselfe knowes not how to rule, nor his people how to obey? When without her support the nobleman cannot vphold his honour, nor the common subiect hold his liberty? When without her safegard the rich man cannot bee free from spoile, nor the poore man from oppression? Briefly, when without her no man liuing, be hee vertuous or vicious, can enioy his life, nor any thing that makes his life delightful? For the couetous man cannot encrease his profit, nor the sensual man enioy his pleasures, but vnder the shaddow of her wings.

Againe, is not Iustice needfull at all times, when we can neither trauell safely by day, nor sleepe securely by night without her protection? when if such a law were made indeed, as was propounded by a wicked Emperour, "That all lawes should cease for foure and twentie houres," that short cessation would bee sufficient to giue opportunity to wicked men to make a greater combustion in the whole world, than that which hapned when the Chariot of the Sun did want a guide but halfe a day, as it is liuely expressed in the fable of Phæton.

Lastly, is not Iustice necessarie in all places, when we cannot without perill make a voyage by sea vnlesse shee waft vs, nor a journey by land, vnlesse shee conuoy us? when wee should be opprest by force in the countrey, if she did not defend vs, and vndone by fraud in the citie, if she did not relieue vs? when she encloseth euerie man's garden and field, and makes euery man's cottage his castle of defence? So as we haue not such a vniuersall and continuall vse neither of the

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light of the sun nor of fire and water, as we haue of the light and heate and comfort of Iustice; for a man may remaine aliue some houres without the vse of those common benefits; but a common-wealth, wherein each priuat man's weale consisteth, cannot stand and continue one minute of an houre, if Iustice, which is her soule, be departed from her.

If therefore Iustice, and the Law, which is but a rule or lesson of Iustice, be so necessary for all persons, times, and places, as no familie, no city, no common-wealth, no kingdome, can stand without the support thereof; how needfull is the seruice of learned men in the Law, without which Iustice it selfe cannot possibly stand? for *Iustitia periret* (saith the President CASSANÆUS) *si deesset qui Iustitiam allegaret.* For if no man did study the reason of the Law, if no man kept in memory the rules of the Law, if no man knew the forme of pleading, or the course of proceeding in the Law, what would become of the publique Iustice in a short time, or how should the benefit of the Law be deriued and communicated vnto the people? For as in a naturall body the reasonable soule cannot vse or transmit any of her powers, but by speciall organs of the same bodie, disposed and fitted by nature for euery function, as the eye to see, the eare to heare, the tongue to speake, and the like of the rest: so in the body politique of a Common-Wealth, the Law, which is the soule thereof, produceth no effect or operation at all, but by such of her Ministers as by art and experience are enabled and qualified for her seruice. For *Lex est Iustitia inanimata*, saith the Schoole-man, *Lex est mutus mag-*

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istratus, saith Cicero; the Law of it selfe is dumbe, and speaks not by the tongue of a learned and eloquent Lawyer; she is deafe, and heareth no complaints but by the eare of a graue and patient Iudge: she is blind, and seeth no enormities but by the eye of a watchfull and diligent officer.

Againe, the Law is nothing else but a Rule, that is made to measure the actions of men. But a Rule is dead and measures nothing, vnlesse the hand of the Architect doe applie it. It is indeed an excellent Instrument to make harmony and concord in the Common-wealth: but the best lute that euer was made could neuer make musick of it selfe alone, without the learned hand of the Luteplaier.

Therefore though Iupiter (as Protagoras in Plato telleth vs) did first inuent and giue the Law, yet was Mercury sent with that heauenly gift, to deliuer it euer vnto mankind. So as it is manifest, without the ministrie of these Mercuries, of these Interpreters of the Law, namely the learned Professors thereof, there can be no vse or application of the Law, and consequently the Law or Iustice it selfe cannot consist without them.

But as the estimation and price of this Profession is exceedingly raised by the necessarie and vniuersall vse thereof, so do her great merits to the Common-Wealth deserue a farre greater exaltation of honour. For first, the Common-Wealth is indebted vnto the Law for all her temporall blessings and felicities whatsoeuer; for all our peace, plentie, ciuilitie, and morall honestie dependeth vpon the Law. That we enioy our liues, our wiues, our children, our lands, our goods, our good names, or whatsoeuer is sweet and deere vnto vs,

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we are beholding vnto the Law for it. *Quid sunt regna nisi latrocinia sine iustitia?* saith Saint Augustine: without Iustice the land would be full of theeues, the Commons would rise against the Nobilitie, the Nobilitie against the Crowne; wee should not know what were our own, what another man's, what we should haue from our auncestors, what wee should to our children: *Maior hæreditas venit vnicuique nostrum a Iure et legibus, quam a parentibus,* saith Cicero: in a word, there would bee nothing certaine, nothing sure; no contracts, no commerce, no conuersation among men, but all Kingdomes and States would be brought to confusion, and all human societie would bee dissolued.

But on the other side, the Law is a fortresse for the weake to retire vnto, a Sanctuarie for the oppressed to flie vnto. It restraineth the boldnesse of the insolent, it tieth with manacles the hands of the potent, and like Orpheus' harpe, or Noah's arke, it charmeth the fiercenesse of the lyon and the tiger, so as the poore lambe may lie in safetie by them.

If then the Law it selfe doth merit so highly of all mankinde in generall, for that it is the fountaine of all these benefits, what doe the Professors of the Law deserue, which draw these benefits out of that fountaine, and deriue the same vnto euerie particular person? *Nam si non habes quo haurias, & puteus altus est,* as the woman of Samaria saith of Iacob's well in the Gospel, how canst thou refresh thy selfe with the water of that well? *Si veritas sit in profundo demersa,* as DEMOCRITUS was wont to say; if human actions be so carried in clouds, as it is hard to finde what is true, and what

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is false, and when the truth of the fact is found, it is many times as hard to distinguish what is iust, and what vniust; if in all causes that come in question, eithet *quæstio facti*, or *quæstio Iuris* must first be decided before a man can receiue the benefit of the Law (for as the wise man saith, *Deus fecit hominem rectum, sed ipse miscuit se infinitis quæstionibus*); what a meritorious work is it to resolue these troublesom questions which arise in the ciuill life of man, either by laying open the truth of the fact, or by cleering the doubtfull point in Law, that speedy and equall Iustice may be done vnto all, and euery one may haue and enioy his own in peace? How often would the truth be concealed and suppressed? how oft would fraud lie hid and vndiscouersd? how many times would wrong escape and passe vnpunished, but for the wisdome and diligence of the Professors of the Law? Doth not this Profession comfort such as are grieued, council such as are perplexed, relieue such as are circumuented, preuent the ruine of the improuident, saue the innocent, support the impotent, take the prey out of the mouth of the oppressor, protect the orphan, the widow and the stranger? Is she not *oculus cæco, et pes claudo*, as Iob speaketh? Doth she not withal many times stretch forth *brachium sæculare* in defence of the Church and true Religion? All which are works of mercie and of singular merit. Againe, doth she not register and keep in memory the best Antiquities of our Nation? doth she not preserue our ancient Customes and forme of gouernment; wherein the wisdom of our Ancestors doth shine far aboue the policie of other Kingdoms? are not the Records of her acts and proceedings so pretious,

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as they are kept in the king's Treasury, like iewells of the Crowne, and reputed a part of the royal treasure? Lastly, is not a worthy Professor of the Law, a star in the firmament of the Common-Wealth? Is he not *lux in tenebris* wheresoeuer he dwelleth? Is not his house as it were an Oracle, not only to a towne or city, but to a whole countrie round about him? So as he may truly say of the people that seeke his councell, as APOLLO PITHIUS spoke in ENNIUS, of such as resorted vnto his Temple.

Suarum rerum incerti, quos ego ope mea
Ex incertis certos, compostesque consilij
Demitto, ne res temere tractent turbidas.

Therfore one of the Roman Emperors doth not without cause giue this honorable testimony of the Professors of the Law, *Aduocati, qui dirimunt ambigua, facta causarum, sucq; defensionis viribus, tam publicis in rebus quam in priuatis, lapsa erigunt, fatigatæ reficiunt, non minus humano generi prouident, quam si prælijs atque vulneribus patriam parentesque saluarent: neque enim solos nostro Imperio militare credimus, qui gladijs, clypeis, et Thoracibus nituntur, sed etiam aduocatos. Militant namque causarum Patroni, qui labor antium spem, vitam et posteros defendunt.* For if it be a worthy deed (as doubtlesse it is) for a man to defend his friends or countrey with his right hand and his sword only; what an excellent seruice is it to defend them with his speech, his reason, and wisdome, wherin the excellencie of man doth principally consist.

Therefore both the Schooleman and the politicke

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prefer Iustice before Fortitude, and the statute of 31. Henry 8. ca. 10. which ranketh the great Officers of the kingdome in their due places, doth place the Constable and Marshal beneath the Chauncellor in all assemblies of councell: for *ille semel* (saith Cicero, speaking of the martiall man) *hic semper proderet reipublicæ*, meaning the learned man of the long Robe.

And in very truth, as the Commonwealth is much beholding to the Profession of the Law, so are the Professors of the Law not a little beholding to the Commonwealth. For if they procure and preserue her peace and her plentie, doth not shee requite them againe with riches and with honor? Doth she not aduance them to her chiefe Benches and Offices, and trust them with the liuelihood and liues of all her people? neither do our learned men of the Law grow to good estates in the Common-wealth, by any illiberal meanes, (as enuie sometimes suggesteth) but in a most ingenious and worthy manner. For the fees or rewards which they receaue, are not of the nature of wages, or pay, or that which wee cal salerie, or hire, which are indeed duties certain, and grow due by contract for labour or seruice, but that which is giuen to a learned Councellor is called *honorarium*, and not *merces*, being indeed a gift which giueth honour as well to the Taker as to the Giuer: neither is it certaine or contracted for; no price or rate can be set vpon councel, which is vnualuable and inestimable, so as it is more or lesse, according to circumstances, namely the ability of the Client, the worthinesse of the Councellor, the weightines of the cause, and the custome of the Countrie. Briefly, it is a gift of such a nature, and giuen and

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taken vpon such tearmes, as albeit the able client may not neglect to giue it without note of ingratitude, (for it is but a gratuitie or token of thankfulnesse) yet the worthie Councellor may not demand it without doing wrong to his reputation; according vnto that morall rule, *Multa honeste accipi possunt, quæ tamen honeste peti non possunt.*

Lastly, it is an infallible argument, that the estates of such as rise by the Law, are builded vpon the foundation of vertue, in that God's blessing is so manifestly vpon them, not only in raising, but in preseruing their houses and posterities: whereof there are examples not a few, and those not obscure, in euerie shire of England, and of the English Pale in this kingdome of Ireland.

If then our Common Law of England be cleere from those vulgar imputations, which ignorance doth conceiue, and enuie report thereof; if the profession or science of the Law be more noble, more necessarie, more meritorious than any other temporall Art or science; and if the dignitie of the Profession do accordingly dignifie all the Professors thereof which are qualified with learning and vertue fit for so worthy a calling, (for such as are ignorant or dishonest, as they are to receiue no grace by the Profession, so the Profession is to suffer no disgrace by them) how highly is that person honored, whose true merit hath aduanced him to the most transendent place of honour that can possibly be attained by that Profession? This is that great place or Office which your Lordship most worthily holdeth (and long may you hold the same) vnder

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his Maiestie; which though it be the highest pinnacle of honour that any person of the long Robe can *in re* or *spe* aspire to, vnder any Monarch; yet was it giuen vnto your Lordship *nec expectenti, nec expectanti,* by the wisest and most renowned Queeen that euer raigned in Europe; who leauing her crown, together with the faithfull seruauts thereof, vnto the wisest and iustest King vpon Earth, his Maiestie in his infallible iudgement and wisdome, confirmed this honourable office vnto your Lordship, not only with a fulnesse of grace to your selfe, but with an augmentation of honor to your posteritie. For what increase of honour can the Lord Chancellor receiue in his owne person, being that in England what Ioseph was in Ægypt, the second person of the Realme in the administration of all Ciuill affaires? being made (as it were) chiefe Steward of his master's house, the chiefe dispencer of his bountie and justice, by the deliuery and custodie of the great Seale, which may properly be called the Key of the kingdome? Being the sole judge of that high Court which is *Sedes miserecordiæ,* and therfore exalted aboue all seats of Iustice: where he had *Potestatem absolutam,* as well as *regulatam,* in binding aud loosing the proceedings of the Law, and in deciding of causes by the rules of his owne conscience.

Briefly, what can there be more "done to the man whom the king will honor"? Is he not *ad latus Principis,* to attend him? Is he not *Auricularius Principis,* to aduise him? Doth not the king make him a Conduit of his wisdome, when he vseth his voice and tongue to declare his Royall pleasure? And doth he not make him an organ

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of his goodnesse, when he trusteth him with his mercie and conscience, in sweetning the bitter waters of *Summum Ius*, and in mitigating the rigour of the Law vnto his people? In a word, doth he not represent *reuerentiam Principis*, in the power and authoritie of his office? and do not the people feare and honor the King euen in the grauitie and dignitie of his person? And are not all these honors made more honorable, and exceedingly raised in true estimation and value, when the same are enioyed in a most famous and flourishing Common-Wealth, and doe proceed as sun beames from the most religious, learned, wise, and most excellent King of the world? If then the greatest honors do of right belong to the greatest vertues, (for what is honor but a reflection and reward of vertue?) how vertuous a person must he be, with what gifts and graces, with what abilities and ornaments, both of art and nature must he be endowed, who can worthily supplie that great and honourable Office?

Assuredly, besides the naturall faculties and powers of his mind, which he ought to have in great perfection, and besides the outward comliness and dignitie of his person; for *Gratior est pulchro veniens è corpore virtus, et Sapientia hominis lucet in vultu eius*, saith *Solomon*, he must be furnished with al learning that hath any relation to the publique good: Diuinitie, Law, Policie, Moralitie, and especially Eloquence, to impart and communicate al the rest. He withall haue a long and vniuersal experience in all the affaires of the Commonwealth: hee must be accomplished and absolute in all points of Grauitie, Constancie, Wisedome, Temperance, Courage, Iustice, Pietie,

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Integritie, and all other vertues fit for Magistracie and gournement; yet so as the same be seasoned and tempered with affabilitie, gentlenesse, humanitie, courtesie, howbeit without descending or diminishing himselfe, but still retaining his diginite, state, and honour. Briefly, he must be a person of such vertue and worthinesse, as his life may be a Censure, and his example a Mirror for all other Magistrates. These are the excellencies and perfections wherewith that great Officer must bee qualified and adorned; and this Idaea haue I conceiued of him not of mine owne imagination, or weake discourse of reason, but out of an humble observation of your Lordshippe; in whome not only those abilities and vertues before expressed, but many other graces and ornaments do shine so brightly, as the weakest iudgement may collect out of the same a most excellent patterne of a most excellent Chancellor.

But perhaps it would bee thought more comely for mee to pronounce this of your lordship to others collaterally, than to speake it to your Lordship of your self directly, (though what can I declare in this kind to others, but that which the world hath long since known and acknowledged)? yet is there no man liuing whom it may better become than my self, to praise and honor your Lordship euery way, whose fauor hath bin (as it were) a good angel vnto me and to whom I stand bound for so many benefits, as that which might carry a shew of edulation in another, must needs be thought but duty and gratitude in me.

Howbeit, besides my particular obligation, there is no Professor of the Law that is not obliged to do

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your Lordship al honor, for the honor you haue done to the Profession of the Law, whereof your Lordship hath been during al your time, a principall light and ornament.

And now (my most honorable good Lord) my deuotion to the Profession of the Law, and to your Lordship, the most noble Patron of the professors thereof, hauing enlarged this DISCOURSE beyond the measure and limits of an Epistle (and therfore I giue it the name of a Preface) it remaineth that I present vnto your Lordship the rude collection of a few selected Cases, which since the beginning of his Maiestie's Raigne haue beene argued, resolued, and adiudged, in this Realme of Ireland.

These are the first-fruites of my labor in this kinde of learning, and are therefore a due and proper oblation to your Lordship, for that my studie haue yeelded the better fruit, beeing cherished by the sun-beames of your Lordships fauor. This is also the first Report of Cases arising in Ireland and ruled in the Courts of Justice there, that euer was made and published to the world, since the Lawes of England were first established in this Kingdome. Lastly, I haue made choise of such special cases, as are either proper for this kingdome onely, or else doe containe for the most part points of learning nor common, or at least not largely debated, in our bookes of the Law.

But for as much as *Natura incipit ab imperfectis* as the schoolman saith, Therefore these weake and imperfect beginnings do seek your Lordship's protection, til time shal giue them more strength and reputation. In the meane time, if your Lordship's

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Iudgement shall allowe the publication hereof. I shall haue the less cause to dout the censure of any other, specially of my Maisters of the Law in England, if any of these bookes happen to come to their hands: to whome I may truly make this protestation, that these Cases being resolued and adiudged in the Courts of Iustice in Ireland, are not collected and published by me, to increase the number of the bookes of Law in England, or to interrupt the better studies of the students there, by reading of this collection, but principally for the use and benefit of our practisers here in Ireland, and to moue and incite others in this Kingdome, by this first example, which doth only open and shew them the way, to performe the like seruice hereafter to posterity.

Neither haue I besought your Lordship's patronage for these cases of Ireland, in respect of my selfe onely, but also in regard of that relation, which your lordship hath vnto this kingdome. For albeit your Lordship be Lord Chancellor of England, yet the Great Seale which you keepe there, is also of force and power within this Realme. Neither can we forget without ingratitude, that your Lordship in that high place of Councell which you hold in England, is vpon al occasions watchful and carefull of the publique good and welfare of Ireland.

Now therfore the onely wise God Who hath giuen vnto your Lordship those blessings which Wisedom hath in store for them that loue her, *Longitudo dierum in dextra eius, et in sinistra eius diuitiæ et gloriæ,* preserue your Lordship for many yeares in health and honor, that you may long continue a prudent and principall

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Councellor vnto your Soueraigne, a louing and proudent Father vnto your Countrey, a comfort and countenance to your particular friends, and all others who partake of your honorable fauours: among which I remaine

Most bound, and most deuoted to doe your Lordship all humble seruice,

Jo. Dauys.

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Appendix to Discourse of Law and Lawyers.

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(a) THE CASE OF PRÆMUNIRE.

OR

The Conuiction and Attainder of Robert Lalor Priest, beeing endited vpon the statute of 16. Rich. 2. Cap. 5.

HILL 4. IACOBI.

THIS Robert Lalor beeing a Natiue of this Kingdome, receiued his Orders of Priesthood aboue thirty yeares since, at the hands of one Richard Brady, to whom the Pope had giuen the title of Bishop of Kilmore in Vlster; and for the space of twenty yeares together, his authority and credit was not meane within the Prouince of Leinster. Hee had also made his

Of what quality, and credit Robert Lalor was.

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name known in the Court of Rome, and held intelligence with the Cardinall who was Protector of this Nation; by meanes whereof he obtained title and iurisdiction of Vicar General of the Sea Apostolike, within the Archbishoprick of Dublin, and the Bishopricks of Kildare and Fernes. This pretended iurisdiction extending welny ouer all the Prouince of Leinster, he exercised boldly and securely many yeares together, vntill the Proclamation was published, whereby all Iesuits and Priests ordained by forraine authority, were commanded to depart out of this kingdome, by a certain time prefixed. After which time he began to lurke and to change his name; howbeit he was at last apprehended in Dublin, and committed to prison in the Castle there. Vpon his first examination, taken by the Lord Deputie himselfe, he acknowledged that he was a Priest, and ordained by a Popish Titulari Bishop; that he had accepted the Title and Office of the Pope's Vicar generall in the three Dioceses before named, and had exercised iurisdiction *in foro conscientiæ;* and in sundry other points he maintained and iustified the Pope's authority; onely he said he was of opinion, that the Pope had no power to excommunicate or depose his Maiestie, because the King is not of the Pope's Religion.

His apprehension and first examination.

The next terme after, he was indicted vpon the statute of 2. Eliz. enacted in this Realme, against such as should wilfully and aduisedly maintaine and vphold the iurisdiction of any forreine Prince and Prelat in any causes Ecclesiasticall or Ciuile within this Realme. By which statute the first offence of that kinde is punished with losse of goods, and one

His first indictement and conuiction.

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yeare's imprisonment; the second offence incurreth the penaltie of the Præmunire; and the third is made high Treason. Vpon this Indictment he was arraigned, conuicted, and condemned, and so rested in prison during the next two Tearmes without any further question. He then made petition vnto the Lord Deputie to be set at liberty; whereupon his Lordship caused him to be examined by Sir Oliuer Saint Iohn, Sir Iames Fullerton, Sir Iefferie Fenton, the Atturney and Solicitor generall. At first he made some euasiue and indirect answers; but at last voluntarily and freely he made this ensuing acknowledgement or confession, which being set down in writing word for word, as hee made it, was aduisedly read by him, and subscribed by his owne hand, and with the hands of those who tooke his examination; and afterwards he confirmed it by his oath before the Lord Deputie and Counsell.

His second examination.

The confession or acknowledgement of Robert Lalor, Priest, made the 22. of December. 1606.

FIRST, he doth acknowledge that he is not a lawfull Vicar generall in the Dioceses of Dublin, Kildare and Fernes, and thinketh in his conscience that he cannot lawfully take vpon him the said Office.

His confession or acknowledgement.

Item, hee doth acknowledge our Soueraigne Lord, King Iames that now is, to be his lawfull, chiefe, and Supreme gouernour in all causes, as well Ecclesiasticall as Ciuill, and that he is bound in conscience to obey him in all the said causes;

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and that neither the Pope, nor any other forreine Prelate, Prince, or Potentate, hath any power to controll the King in any cause Ecclesiasticall or Ciuill within this Kingdome, or any of his Maiestie's Dominions.

Item, he doth in his conscience beleeue, that all Bishops ordained and made by the King's authority within any of his Dominions, are lawfull Bishops; and that no Bishop made by the Pope, or by anie authoritie deriued from the Pope, within the King's Dominions, hath any power or authoritie to impugne, disanull, or controll any Act, done by any Bishop made by his Maiestie's authoritie as aforesaid.

Item, he professeth himselfe willing and ready to obey the King, as a good and obedient Subiect ought to doe, in all his lawfull commandements, eyther concerning his function of Priesthood, or any other dutie belonging to a good Subiect.

After this confession made, the State here had no purpose to proceed against him seuerely, either for his contempt of the Proclamation, or offence against the Law: So as he had more liberty than before, and many of his friends had accesse vnto him; who telling him what they heard of his confession, hee protested vnto them, that he had only acknowledged the king's Ciuill and Temporall power, without any confession or admittance of his authoritie in spirituall causes. This being reported vnto the Lord Deputie by sundry gentlemen, who gaue faith vnto what he said, his Lordship thought fit, that since he had incurred the paine of Premunire, by exercising Episcopall iurisdiction as Vicar generall to the Pope, that hee should be attainted of that offence, as well to make

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him an example to others of his profession, (for almost in euery Dioces of this kingdome there is a Titulary Bishop ordained by the Pope;) as also that at the time of his trial, a iust occasion might be taken, to publish the confession and acknowledgement which he had voluntarily made, signed, and confirmed by oath before the Lord Deputie and Counsell, who haue likewise subscribed their names as witnesses thereof.

Hereupon, in Hillarie Tearm, 4. Iacobi, an inditement was framed against him in the King's Bench, vpon the statute of 16. Rich. 2. cap. 5. containing these seuerall points.

The inditement of Lalor vpon the stat. of 16. Ric. 2.

1. That he had receiued a Bull or Breefe purchased or procured in the Court of Rome: which Bull or Breeue did touch or concerne the King's Crowne and dignity Royall; containing a Commission of Authoritie from the Pope of Rome vnto Richard Brady and Dauid Magragh, to constitute a Vicar generall for the Sea of Rome, by the name of the Sea Apostolike, in the seuerall Dioceses of Dublin, Kildare, and Fernes within this Kingdome of Ireland.

2. That by pretext or colour of that Bull or Breeue, hee was constituted Vicar generall of the Sea of Rome, and took vpon him the stile and title of Vicar generall in the said seuerall dioceses.

3. That he did exercise Ecclesiasticall Iurisdiction as Vicar generall of the Sea of Rome, by instituting diuers persons to benefices, with cure of soules: by granting dispensations in causes Matrimoniall; by pronouncing sentences of diuorce betweene diuers married persons; and by doing all other actes and things pertaining to Episcopall

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iurisdiction, within the said seuerall Dioceses, against our Soueraigne Lord the King his Crowne and dignitie Royall, and in contempt of his Maiestie, and disherison of his Crowne, and contrary to the forme and effect of the statute, &c.

To this inditement Lalor pleaded not guilty, and when the issue was to be tried, the name and reputation of the man, and the nature of the cause, drew all the principall gentlemen both of the Pale and Prouinces that were in towne, to the hearing of the matter. At what time a substantiall Iurie of the City of Dublin being sworne for the trial, and the points of the Inditement being opened and set forth by the King's Seriant; the Atturney generall thought it not impertinent, but very necessary, before he descended to the particular euidence against the prisoner, to informe and satisfie the hearers in two points:

1. What reason mooued vs to ground this inditement vpon the old statute of 16. Rich. 2. rather than vpon some other later law, made since the time of King Henr. 8.

2. What were the true causes of the making of this law of 16. Rich. and other former lawes against Prouisors and such as did appeale to the Court of Rome in those times; when both the Prince and people of England did for the most part acknowledge the Pope to be the thirteenth Apostle, and onely oracle in matters of Religion, and did follow his doctrine in most of those points, wherein we now dissent from him.

1. For the first point, we did purposely forbeare to proceede against him vpon any later law, to the end, that such as were ignorant, might be informed that long before K. Henr. 8, was borne, diuers lawes

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were made against the vsurpation of the Bishop of Rome vpon the rights of the Crowne of England; well nie as sharpe and as seuere as any statutes which haue bin made in later times, and that therefore we made choice to proceede vpon a law made more then 200. years past, when the King, the Lords, and Commons which made the lawes, and the Iudges which did interpret the lawes, did for the most part follow the same opinions in Religion, which were caught and held in the Court of Rome.

The true cause of making the stat. of 16. R. 2. and other statutes against Prouisors.

2. For the second point, the causes that mooued and almost enforced the English nation to make this, and other statutes of the same nature, were of the greatest importance that could possibly arise in any State. For these lawes were made to vphold and maintaime the Soueraigntie of the King, the liberty of the people, the common lawe, and the common-weale; which otherwise had been undermined and vtterly ruined by the vsurpation of the Bishop of Rome.

For albeit the Kings of England were absolute Emperours within their Dominions, and had vnder them as learned a Prelacie and Cleargie, as valiant and prudent a Nobility, as free and wealthy a Commonaltie as any was then in Christendom; yet if wee looke into the stories and records of these two imperiall Kingdomes, we shall find, That if these lawes of Prouision and Præmunire had not beene made, they had lost the name of Imperiall, and of Kingdomes too, and had bin long since made Tributary Prouinces to the Bishop of Rome, or rather part of S. Peter's patrimony, in demesne, Our King had had their Scepters wrested out of

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their hands, their Crowns spurned off from their heads, their necks trod vpon; they had bin made Laquaies or footmen to the Bishop of Rome, as some of the Emperors and French Kings were; our Prelates had beene made his Chaplaines and Clearks; our Nobilitie his vassalls and seruants, our Commons his slaues and villaines, if these Acts of manu-mission had not freed them. In a word, before the making of these Lawes, the flourishing Crowne and Common-wealth of England was in extream danger to haue bin brought into most miserable seruitude and slauery, vnder colour of Religion and deuotion to the Sea of Rome. And this was not onely seen and felt by the King, and much repined at and protested against by the Nobilitie, but the Commons, the generall multitude of the Subiects did exclaime and cry out vpon it. For the Commons of England may be an example vnto all other Subiects in the world in this, that they haue euer beene tender and sensible of the wrongs and dishonors offered vnto their Kings, and haue ever contended to vphold and maintaine their honour and Soueraigntie. And their faith and loyaltie hath been generally such (though euery age hath brought forth some particular monsters of disloyaltie) as no pretence of zeale or religion could euer withdraw the greater part of the Subiects to submit themselues to a forrein yoke, no not when Popery was in her height and exaltation, whereof this Act and diuers other of the same kind are cleere and manifest testimonies. For this Act of 16. Rich. 2. was made at the prayer of the Commons; which prayer they make not for themselues, neither shew they their owne selfe-loue therein (as

The statute of præmunire made at praier of the Commons.

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in other Bills which contain their grieuances) but their loue and zeale to the King and his Crowne. When after the Norman Conquest they importuned their Kings for the Great Charter, they sought their owne liberties, and in other bills preferred commonly by the Commons against Shriefes, Escheators, Purueyors, or the like, they seek their owne profit and ease; but here their petition is to the King, to make a law for the defence and maintenance of his owne honor. They complaine, that by Bulls and processes from Rome, the King is depriued of that iurisdiction which belongs of right to his imperiall Crowne; that the King dooth loose the seruice and counsell of his Prelats and learned men, by translations made by the Bishop of Rome; that the King's lawes are defeated at his will, the Treasure of the Realme is exhausted and exported to enrich his Court, and that by those means the Crown of England, which hath euer beene free and subiect vnto none, but immediately vnto God, should bee submitted vnto the Bishop of Rome, to the vtter destruction of the King and the whole Realme, which God defend, say they; and thereupon out of their exceeding zeale or feruencie, they offer to die with the king in defence of the Crowne. And lastly, they pray and require the King by way of iustice, to examine all the Lords in Parliament, what they thought of these manifest wrongs and vsurpations, and whether they would stand with the King in defence of his Royall liberties, or no; which the King did according to their petition; and the Lords Spirituall and Temporall did all answere, that these vsurpations of the Bishop of Rome were against the

The effect of the statute of 26. R. 2. ca. 8.

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liberties of the Crowne, and that they were all bound by their allegeance to stand with the King and to maintaine his honour and prerogatiue. And thereupon it was enacted with the full consent of the three Estates, that such as should purchase in the Court of Rome, or elsewhere, anie Bulls or Processes, or other things which might touch the King in his Crowne and dignitie Royall, and such as should bring them into the Realme, and such as should receiue them, publish them, or execute them, they, their Notaries, Proctors, Maintainors, and Counsellors, should bee all out of the King's protection, their lands and goods forfeited to the King, their bodies attached if they might be found, or else processe of *Præmunire facias* to be awarded against them. Vpon these motiues, and with this affection and zeale of the people, was the statute of 16. Rich. 2. made, whereupon we have framed our inditement.

Now let vs looke higher, and see whether the former lawes made by King Edw. 3. and King Edw. 1. against the vsurpation of the Bishop of Rome was not grounded vpon the like cause and reason. The statute of 38. Edw. 3. cap. 1. expressing the mischiefes that did arise by Breues of citation, which drew the bodies of the people, and by Bulls of prouision and reseruation of ecclesiasticall benefices, which drew the wealth of the Realm to the Court of Rome, doth declare, that by these meanes the ancient lawes, customes, and franchises of the Realm were confounded; the Crowne of our Soueraigne Lord the King diminished and his person falsely defamed; the Treasure and riches of the Land carried away; the Subiects of the

The effect of the statute of 38. Edw. 3. cap. 1.

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Realm molested and impouerished; the benefices of holy-Church wasted and destroied; Diuine seruice, Hospitalitie, Almesdeedes, and other workes of charitie neglected.

The statute of 27. Ed. 3. cap. 1.

Againe 27. Edw. 3. cap. 1. vpon the grieuous and clamorous complaint, (for that phrase is there vsed) of the great men, and Commons touching Citations and Prouisions, it is enacted, that the offendors shall forfeit their lands, goods and chattels, and their bodies be imprisoned and ransomed at the King's will. But in the statute of 25. Edw. 3. wherein the first lawe against Prouisors made,—25. Ed. 1—is recited, there is a larger declaration of these incoueniences, than in the two last Acts before mentioned. For there all the Commons of the Realme doe grieuously complaine, that whereas the holy Church of England was first founded in estate of Prelacie by the Kings and Nobilitie of that Realme, and by them endowed with great possessions and reuenewes in lands, rents, and Aduowsons, to the end that the people might be informed in Religion, Hospitality might be kept, and other works of charity might be exercised within the Realme. And whereas the king and other founders of the said Prelacies were the rightfull Patrons and Aduowes therof, and vpon auoydance of such Ecclesiasticall promotions had power to aduance thereunto their kinsmen, friends, and other learned men of the birth of that Realme, which being so aduanced became able and worthy persons to serue the King in Counsell, and other places in the Common weale; the Bishop of Rome vsurping the Seigniory of such possessions and benefices did

The statute of 25. Edw. 3. reciting the statute of 25. Ed. 1.

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giue and grant the same, to Aliens, which did neuer dwell in England, and to Cardinals which might not dwell there; as if he were rightfull Patron of those benefices: whereas by the Law of England he neuer had right to the Patronage thereof; whereby in short time all the spirituall promotions in the Realme would be ingrossed into the hands of Strangers, Canonicall Elections of Prelats would be abolished, workes of Charity would cease, the founders and true patrons of Churches would be disinherited, the King's Counsell would be weakened, the whole kingdome impouerished, and the lawes and rights of the Realme destroyed. Vpon this complaint, it was resolued in Parliament, That these oppressions and grieuances should not be suffered in any manner; and therefore it was enacted, that the King and his Subiects should thenceforth enioy the rights of patronage, that free elections of Archbishops, Bishops, and other Prelates, electiue should be made according to the ancient grants of the King's progenitors and ther founders; that no Bulls of Prouision should be put in execution, but that the Prouisors should be attached, fined, and ransomed at the King's will, and withall imprisoned till they had renounced the benefites of the Bulls, satisfied the party grieued, and giuen sureties not to commit the like offence againe.

Now, Master Lalor, what thinke you of these things? Did you beleeue that such lawes as these had beene made against the Pope 200, 250, 300 yeares since? Was King Hen. 8. the first Prince that opposed the Pope's vsurped authority? Were our Protestants the first Subiects that euer complained of the Court of Rome? Of what Religion,

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thinke you, were the propounders and enacters of these lawes? Were they good Catholikes? or good Subiects? or what were they? You will not say they were Protestants; for you will not admit the reformed Religion to be so ancient as those times; neither can you say they were vndutifull, for they stroue to vphold their liege Lord's Soueraignety. Doubtlesse the people in those dayes did generally embrace the vulgar errours and superstitions of the Romish Church, and in that respect were Papists as well as you, but they had not learned the new doctrine of the Pope's Supremacie and transcendent authority ouer Kings; they did not beleeue he had power to depose Princes, and discharge Subiects of their allegeance; to abrogate the fundamentall lawes of kingdomes, and to impose his Canons as binding lawes vpon all nations, without their consents; they thought it a good point of Religion to be good Subiects, to honour their King, to loue their country, and to maintaine the lawes and liberties thereof, howsoeuer in other points they did erre and were mislead with the Church of Rome.

These lawes made by such as did professe the Romish Religion.

So as now (Master Lalor) you haue no excuse, no euasion, but your conscience must condemne you, as well as the lawe; since the law-makers in all ages, and all religious Papists and Protestants doe condemne you; vnlesse you thinke your selfe wiser than all the Bishops that were then in England, or all the Iudges who in those dayes were learned in the Ciuill and Canon lawes, as well as in the Common lawes of England. But you being an Irish man, will say, perhaps, these lawes were made in

Laws against Prouisors made in Ireland.

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England, and that the Irish Nation gaue no particular consent thereunto, onely there was an implicite consent wrapt and folded vp in generall tearmes giuen in the statute of 10. Henr. 7. cap. 22. whereby all statutes made in England, are established and made of force in Ireland. Assuredly, though the first Parliament held in Ireland, was after the first law against Prouisors made in England, yet haue there bin as many particular lawes made in Ireland against Prouisions, Citations, Bulls, and Breeues of the Court of Rome, as are to be found in all the Parliament Rolls in England. What will you say if in the selfe-same Parliament of 10. Henr. 7. cap. 5. a special law were made, enacting, authorising, and confirming in this Realme all the statutes of England made against Prouisors? If before this the like law were made. 32. Henr. 6. cap. 4. and againe. 28. Henr. 6. cap. 30. the like? And before that, the like law were made. 40. Edw. 3. cap. 13. in the famous Parliament of Kilkenny? If a statute of the same nature were made. 7. Edw. 4. cap. 2. and a seuerer law then all these. 16. Edw. 4. cap. 4? That such as purchase any Bulls of Prouision in the Court of Rome, as soone as they haue published or executed the same to the hurt of any incumbent, should be adiudged traytors: which Act if it be not repealed by the Statute of Queene Mary, may terrifie Master Lalor more than all the Actes which are before remembred.

But let vs ascend yet higher, to see when the Pope's vsurpation, which caused all these complaints, began in England; with what successe it was continued, and by what degrees it rose to that heighth, that it well nie ouer topp't the Crowne;

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When the Pope began first to vsurp vpon the liberties of the Crowne of England.

whereby it will appeare whether hee had gained a circle by prescription by a long and quiet possession, before the making of these lawes.

The first encrochment of the Bishop of Rome vpon the liberties of the Crowne of England, was made in the time of King William the Conqueror. For before that time the Pope's writ did not runne in England; his Buls of excommunication and prouision came not thither; no citation, no appeales were made from thence to the Court of Rome.

A comparison of the spiritual Monarchy of the Church with the temporall Monarchies of Empires.

Our Archbishops did not purchase their Palls there, neither had the Pope the inuestiture of any of our Bishopricks. For it is to be obserued, that as vnder the Temporall Monarchie of Rome, Brittany was one of the last Prouinces that was won, and one of the first that was lost again. So vnder the spirituall Monarchy of the Pope of Rome, England was one of the last countries of Christendom that received his yoke, and was againe one of the first that did reiect and cast it off. And truely as in this, so in diuers, other points, the course of this spirituall Monarchy of the Pope, may bee aptly compared with the course of the temporall Monarchies of the world. For as the temporall Monarchies were first raised by intrusion vpon other Princes and Common-weales; so did this spiritual Prince (as they now stile him) grow to his greatnesse by vsurping vpon other States and Churches. As the temporall Monarchies, following the course of the Sunne, did rise in the East, and settle in the West, so did the Hierarchie or gouernment of the Church. Of the foure temporall Monarchies the first two were in Asia; the latter two

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in Europe; but the Romane Monarchy did surpasse and suppresse them all: So were there foure great Patriarches, or Ecclesiasticall Hierachies, two in the East, and two in the West, but the Romane Patriarch exalted himselfe and vsurped a Supremacie aboue them all. And as the rising of the Romane Empire was most opposed by the State of Carthage in Africa (æmulæ Romæ Carthago:) So the Councet of Carthage and the African Bishops did first forbid appeales to Rome, and opposed the Supremacie of the Pope. And doth not Daniel's image, whose head was of gold, and legs and feete of iron and clay, represent this spiritual Monarchy as well as the temporall; whereas the first Bishops of Rome were golden Priests, though they had but wooden chalices; and that the Popes of later times have beene for the most part worldly and earthly minded? And as the Northerne Nations, first reuolted from the Romane Monarchie, and at last brake it in peeces, haue not the North and Northwest Nations, first fallen away from the Papacie; and are they not like in the end to bring it to ruin.

The Pope had no iurisdiction in England in the time of the Brittons.

But to return to our purpose. The Bishop of Rome before the first Norman Conquest had no iurisdiction in the Realme of England, neither in the time of the Brittons, nor in the time of the Saxons. Eleutherius the Pope within less than 200 yeares after Christ, writes to Lucius the Brittish King, and cals him God's Vicar within his Kingdome; which title he would not haue giuen to that King, if himselfe vnder pretence of God's Vicar generall in earth and claimed iurisdiction ouer all Christian kingdomes.

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Pelgagius the Monke of Bangor, about the year 400, being cited to Rome, refused to appeare vpon the Pope's citation, affirming, that Brittain was neither within his Dioces, nor his Prouince.

After that, about the year 600, Augustine the Monk was sent by Gregory the great into England to conuert the Saxons to Christian Religion. The Brittish Bishops then remayning in Wales, regarded not his Commission nor his doctrine, as not owing any duty, nor hauing any dependancie on the Court of Rome, but still retained their ceremonies and traditions which they receiued from the East Church vpon the first plantation of the faith in that Iland; being divers and contrarie to those of the Church of Rome, which Augustine did endeauour to impose vpon them.

The like doth Beda write of the Irish Priests and Bishops. For in the yere 660, he reporteth, that a conuocation of the Clergie being called by King Oswif, there rose a disputation betweene Colmau, one of the Irish Saints, then present in that Synod, and Wilfred a Saxon Priest, touching the obseruation of Easter; wherein the Brittish and Irish Churches did then differ from the Church of Rome. Coleman for the celebration of Easter vsed in Ireland, affirmed it was the same, *quodbeatus Euangelista Ioannes, discipulus spetialiter a Domino dilectus, in omnibus, quibus præerat, Ecclesijs celebrasse legitur.* On the other part Wilfrid alledged, that all the Churches of Christendome did then celebrate Easter after Roman maner, except the Churches of the Brittons and Picts, *qui contra totum orbem* (said he) *stulto labore pugnant.* Whereunto *Colman* replyed, *Miror quare stultum laborem appellas, in quo tanti Apostoli qui super*

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pectus Domini recumbere dignus fuit, exempla sectamur. Nunquid reuerendissimum patrem nostrum Columbam et eius successors, viros a Deo dilectos diuinis paginis contraria sapuisse aut egisse credendum est? In this disputation or dialogue, two things may be obserued: first, that at this time the authority of the Bishop of Rome was of no estimation in these Ilands; next, and the Primitiue Churches of Brittany and Ireland were instituted according to the forme and discipline of the East Churches and not of the West, and planted by the Disciples of Iohn, and not of Peter. Thus much for the time of the Brittons. For the Saxons, though King Ina gaue the Peter pence to the Pope, partly as Almes, and partly in recompence of a house erected in Rome for entertainment of English pilgrimes; yet it is certaine, that Alfred, and Athelstane, Edgar and Edmund, Canutus, and Edward the Confessor, and diuers other Kings of the Saxon race did giue all the Bishopricks in England *Per annulum et baculum,* without any other ceremony, as the Emperour and the French King and other Christian Princes, were wont to doe. They made also seuerall lawes for the gouernment of the Church: Among others Saint Edward begins his lawes with his protestation, that it is his princely charge, *Vt populum Domini, et super omnia, sanctam Ecclesiam regat et gubernet.* And King Edgar in his Oration to his English Cleargie, *Ego* (saith he) *Constantini, vos Petri gladium habetis: iungamus dextras, et gladium gladio copulemus, vt eijciantur extra Castra leprosi, et purgetur sanctuarium Domini.* So as the Kings of England with their own Cleargie did gouerne the Church, and therein sought no ayde of the

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Court of Rome. And the troth is, that though the Pope had then long hands, yet hee did not extend them so farre as England. because they were full of busines neerer home in drawing the Emperour and the French King, vnder his yoke. But vpon the conquest made by the Norman, he apprehended the first occasion to vsurpe vpon the liberties of the Crowne of England. For the Conqueror came in with the Pope's Banner, and vnder it won the battaile which got him the garland; and therefore the Pope presumed hee might boldly plucke some flowers from it, being partly gained by his countenance and blessing. Hereupon he sent two Legates into England, which were admitted and receiued by the Conqueror. With them he called a Synod of the Clergie, and deposed old Stigand Archbishop of Canterbury, because hee had not purchased his Pall in the Court of Rome, [and] he displaced many Bishops and Abbots to place his Normans in their roomes. And amongst the rest is to be noted, That the King hauing earnestly mooued Walton Bishop of Worcester, being then very aged, to giue vp his staffe; his answer was, that he would giue vp his staffe onely to him of whom hee first receiued the same. And so the old man went to Saint Edward's Tombe, and there offered vp his staffe and ring, with these words, 'Of thee O holy Edward, I receiued my staffe and my ring, and to thee I do now surrender the same againe:' which proues, that before the Norman Conquest the King did inuest his Bishops *per annulum et baculum*, as I said before.

The first vsurpation of the Pope vpon the crowne began in the time of King William the Conqueror.

By sending Legates into England.

Thus we see by the admission of the Pope's

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Legates, the first step or entrie made into his vsurped iurisdiction in England. Albeit the King still retained the absolute power of inuesting Bishops, and seemed onely to vse the aduise and Assistance of the Legates in Ecclesiasticall matters, for that no decree passed, or was put in execution, without his Royall assent thereunto. Besides, how farre forth he submitted himselfe to the Pope, it appeareth by a short Epistle which he wrote to Gregory the 7. in this forme. *Excellentissimo sanctæ Ecclesiæ Pastori Gregorio, gratia Dei Anglorum Rex, et Dux Normanorum Willielmus, salutem cum Amicitia, Hubertus Legatus tuus, Religiose Pater, ad me veniens ex tua parte me admonuit, vt tibi et succcessoribus tuis fidelitatem facerem, et de pecunia quam antecessores mei ad Romanam Ecclesiam mittere solebant, melius cogitarem. Vnum admisi, alterum non admisi: fidelitatem sacere, nolui, nec volo, quia nec ego promisi, nec antecessores meos antecessoribus tuis id fecisse comperio Pecunia tribus ferè annis, in Gallijs me agente, negligentur collecta est nunc vero diuina misericordia meum Regnum meum reuerso, quod Collectum est per præfatum Legatum mittetur, et quod reliquum est, per Legatos Lanfranci Archiepiscopi fidelis nostri, cum opportunum fuerit, transmittettur, &c.*

In the time of Wil. Rufus the Pope attempted to draw appeals to Rome but preuailed not.

But in the time of his next successor, King William Rufus, they attempted to passe one degree farther, that is to draw appeales to the Court of Rome. For Anselme being made Archbishop of Canterbury, and being at some difference with the King, besought his leaue to goe to Rome, vnder pretence of fetching his Pall. The King knowing he would appeale to the Pope, denied him leaue to

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goe, and withall told him, That none of his Bishops ought to be subiect to the Pope, but the Pope himselfe ought to be subiect to the Emperour; and that the King of England had the same absolute liberties in his Dominions, as the Emperour had in the Empyre; and that it was an ancient custome and lawe in England, vsed time out of mind before the Conquest, that none might appeale to the Pope without the King's leaue; and that hee that breaketh this lawe or custome, doth violate the Crowne and dignitie Royall; and he that violates my Crowne, (saith he), is mine enemie, and a traytor. How answere you this, quoth the King? Christ himselfe answers you, saith the Archbishop, *Tu es Petrus, et super hanc petram, &c.* Wherewith the King was nothing satisfied: And thereupon Anselme departing out of the Realme, without licence, the King seised his temporalities, and became so exasperate and implacable towards the Bishop, as he kept him in perpetuall exile during his Raigne, albeit great intercession was made for his returne, as well by the Pope as the King of France. In the time of the next King, Henr. 1, though he were a learned and a prudent Prince, yet they sought to gaine a further point vpon him, and to plucke a flower from his Crowne of greater value, namely the patronage and donation of Bishoprickes and all other benefices Ecclesiasticall. For Anselme being reuok't and re-established in the Sea of Canterbury, the Bishopricks of Salisbury and Hereford fell voyd; which the King bestowed [on] two of his Chaplaines. But Anselme their Metropolitane did refuse to consecrate them, so as the Archbishop of Yorke was

In the time of K. Henry the first, the Pope vsurpeth the donation of Bishopricks &c.

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faine to performe that Office; who with the Chiefe of the English Cleargie stood with the King, and withstood Anselme. Hereupon the King requires him to doe his homage; the Bishop denyes it: the King demands of him whether the patronage and inuestiture of the Bishoprickes were not his rightfull inheritance? the Bishop said it was not his right, because Pope Vrban had lately made a decree that no lay person should giue any Ecclesiasticall benefice. This was the first question that euer was made touching the King of England's right of patronage and donation of Bishoprickes within his dominions. This new question caused many messages and ambassages to Rome. At last the King writes plainely to the Pope, *Notum habeat sanctitas vestra, quod me viuente (Deo auxiliante) dignitates et vsus regni nostri non minuentur, et si ego (quod absit) in tanta me directione ponerem magnates mei, imo totius Angliæ populus id nullo modo patereter.* Besides, William de Warrenast the King's procurator in the Court of Rome, told the Pope that the King would rather loose his kingdome then he would loose the donation of his Bishoprickes. The Pope answered, know you precisely Sir, I speake it before God, that for the redemption of my head, I would not suffer him to enioy it.

Histor. Iorana-lensis. M.S. in Archiv. Rob. Cotton Eq. Aur.

After this, Anselme being receiued into the King's fauour, in a Synod of the English Cleargie holden at London in the yere 1107, a decree was made, *Cui annuit rex Henricus,* saith Math. Paris, that from thenceforth *nunquam per donationem, Baculi Pastoralis vel annuli quisquam de Episcopatu, vel Abbathia per Regem, vel quamlibet laicam manum*

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inuestiretur in Anglia. In recompence whereof, the Pope yelded this fauour to the King, that thenceforth no Legate should be sent from the Pope's side into England, vnlesse the King required it; and that the Archbishop of Canterbury for the time being, should be for euer *Legetus natus*: and Anselme for the honor of his Sea, obtained, that the Archbishop of Canterbury should in all generall Councells sit at the Pope's foote *tanquam alterius orbis Papæ.* Notwithstanding, as the succeeding Popes kept not their promise touching the sending of Legates, so this selfe same King, after the death of Anselme, broke the decree touching the inuestiture of the Bishops. For hee gaue the Archbishopricke of Canterbury to Rodolph Bishop of London, saith Matth. Paris, *Et illum per aunulum et Pastoralem baculum inuestituit,* as before he had inuested Willielmum Gifford in the Bishoprick of Winchester, *contra noui Consilij statuta,* as the same Author reporteth.

In the time of King Stephen the Pope gained appeales to the Court of Rome.

The times of the next succeeding King, Stephen, were full of Ciuile dissentions, which made the Land well nie waste, so as Saint Peter's successor could not take any fish in such troubled waters. Yet during the King's raigne, they wonne that point of iurisdiction which they attempted to get but failed thereof in the time of King William Rufus; namely, That appeales might bee made to the Court of Rome. For in a Synod at London, summoned by Henry, Bishop of Winchester, the Pope's Legate, it was decreed, That appeales should be made from Prouinciall Councells to the Pope; before that time *appellationes in vsu non erant,* saith a Monke of that time, *Donec Henricus*

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Winton Episcopus malo suo dum Legatus esset, crudeliter intrusit. Thus did the Pope vsurp three maine points of iurisdiction vpon three seuerall Kings after the Conquest (for of William Rufus he could winne nothing) namely vpon the Conquerour, the sending of Legates or Commissioners to heare and determine Ecclesiasticall causes; vpon Henr. 1. the donation and inuestitures of Bishoprickes and other benefices; vpon King Stephen, the appeales to the Court of Rome.

In the time of K. Henry 2. the Pope claymed exemption of Clarkes from the secular power.

Now are we come to King Henry 2, in whose time they made a further encroachment vpon the Crowne, wherby they endeauoured to make him but halfe a King, and to take away halfe his Subiects by exempting all Clarks from secular power. Hereupon rose that long and great contention betweene King Henry 2 and Thomas Becket, which on Becket's behalfe may be rightly tearmed rebellion and treason: the iust cause and ground whereof was the same, that made the late difference betweene the Pope and the Venetians. For a Priest had committed a fowle murder, and being thereof indicted and conuicted, prayed the benefit of his Cleargie; which being allowed vnto him, he was deliuered to the Bishop of Salisbury being his ordinary, to make his purgation; which the murderer failing to doe, should by the lawe haue beene degraded and deliuered backe to the secular power. But the Bishop contemning the law of the Land, to enlarge the liberties of the Church, sent his prisoner to Thomas Becket then Archbishop of Canterbury, who shifted him into an Abbey, and so rescued him

A breefe of Th. Becketstroubles or rather treasons.

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from the capitall punishment he had iustly deserued.

This gap of impunitie being once opened, the Cleargie grew so outragious, as the King was enformed of a hundred murders committed by Clarkes; and yet not one of them executed for the same, for that the Archbishop had protected them all after the same manner. For this the King was iustly incensed against the Archbishop, who iustified his doing herein. Whereupon a common counsell as well of the Bishops as of the Nobilitie was called, wherein they did receiue and re-establish the ancient lawes and customes of the kingnome for the gouernment of the Cleargie and orderieg of causes Ecclesiasticall; whereof these were the principall heads or articles.

The constitutions of Claringdon.

1. That no Bishop, nor Clarke should depart the Realme without the King's licence, and that such as obtained licence, should giue sureties that they should procure no hurt or damage to the King or Realme during their absence in forreine parts.

2. That all Bishopricks and Abbeyes being void, should remaine in the King's hands as his owne demesnes, vntill he had chosen and appointed a Prelat thereunto, and that euery such Prelat should doe his homage to the King before hee were admitted vnto the place,

3. That appeales should be made in causes Ecclesiaiticall in this manner: from the Archdeacon to the Ordinary, from the Ordinary to the Metropolitane, from the Metropolitane to the King, and no further.

4. That Peter pence should be paid no more to the Pope, but to the King.

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5. That if any Clarke should commit felony, he should be hanged; if treason, he should be drawne and quartered.

6. That it should be adiudged high treason to bring in Bulls of Excommuication whereby the Realme should be cursed.

7. That no decree should be brought from the Pope to be executed in England vpon pain of imprisonment and confiscation of goods.

To these and other Constitutions of the like nature made at Claringdon, all the rest of the Bishops and great men did subscribe, and bound themselues by oath to obserue the same absolutely, onely the Archbishop would not subscribe and sweare, but with a sauing *saluo suo ordine et honore sanctæ Ecclesiæ;* yet at last he was content to make the like absolute subscription and oath as the rest had done, but presently he repented; and to shew his repentance, suspended himselfe from celebrating Masse till he had receiued absolution from the Pope. Then he began to maintaine and iustifie the exemption of Clarkes againe; whereat the King's displeasure was kindled anew; and then the Archbishop once againe promised absolute obedience to the King's lawes (See the ficklenes and mutability of your constant Martyr.) The King to bind fast this slippery Proteus, called a Parliament of the Bishops and Barons, and sending for the Roll of those lawes, required all the Bishops to set their seales thereunto. They all assented, but the Archbishop, who protested he would not set his seale, nor giue allowance to those lawes. The King being highly offended with his rebellious demeanor, required the Barons in Parliament to giue Iudgement of him, who being his subiect

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would not be ruled by his lawes: *Cito facite mihi iustitiam de illo qui homo meus ligeus est, et stare Iuri in Curia mea recusut.* Wherupon the Barons proceeding against him, and being ready to condemne him: I prohibite you (quoth the Archbishop) in the name of Almighty God to proceed against me, for I haue appealed to the Pope; and so departed in contempt of that high Court, *Omnibus, clamantibus* saith HOVENDEN, *quo progrederis proditor? expecta et audi iudicium tuum.* After this he lurked secretly neere the Sea-shore, and changing his apparell and name (like a Iesuit of these times,) he tooke shipping with a purpose to flye to Rome, but his passage being hindered by contrary winds, he was summoned to a Parliament at Northampton, where he made default wilfully; for which contempt, his temporalties were seised; and his body being attacht, he was charged with so great an account to the King, as that he was found in arreare thirty thousand markes, and committed to prison; whence hee found meanes to escape shortly after and to passe out of the Realme to Rome. He was no sooner gone, but the King sends writs to all the Sherifes in England to attach the bodies of all such as made any appeales to the Court of Rome. Hereupon many messages and letters passing to and fro, all the suffragans of Canterbury ioyne in a letter to the Pope, wherein they condemne the fugitiue Archbishop, and iustifie the King's proceedings. Vpon this the Pope sends two Legates to the King being then in Normandy, to mediate for the Archbishop. They with the mediation of the French King, preuailed so farre with King Henry, as that he was pleased to accept his submission once againe, and promised

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the King of France, that if he would be obedient to his lawes, he should enioy as ample liberties as any Archbishop of Canterbury euer had; and so sent him into England with recommendation vnto the young King his Sonne then lately crowned, who hearing of his comming, commanded him to forbeare to come to his presence, vntill hee had absolued the Archbishop of York and others whom he had excommunicated for performing their duties at his Coronation. The Archbishop returned answer that they had done him wrong in vsurping his office, yet if they would take a solemne oath to become obedient to the Pope's commandement in al things concerning the Church, he would absolue them. The Bishops vnderstanding this, protested they would neuer take that oath vnlesse the King willed them so to do. K. Henry the father, being hereof aduertised into France, did rise into great passion and choler, and in the hearing of some of his seruants vttered words to this effect: 'Will no man reuenge me of mine enemies?' Wherupon the 4. Gentlemen named in the stories of that time passed into England, and first mouing the Archbishop to absolue the Bishops whom he had excommunicated for performing their duties at the young King's Coronation: and receiuing a peremptory answer of deniall from the Archbishop, they laid violent hands vpon him, and slew him; for which the King was faine not onely to suffer corporall pennance, but in token of his humiliation to kisse the knee of the Pope's Legate. And this is the abrigement of Becket's troubles, or rather treasons, for which he was celebrated for so famous a Martyr. And thus you see, by what

Foure points of iurisdiction vsurped vpon the crown of England by the Pope before the raign of K. Iohn.

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degrees the Court of Rome did within the space of one hundred and odde yeares, vsurpe vpon the Crown of England foure points of Iurisdiction, Viz. First, sending out of Legates into England. Secondly, drawing of Appeales to the Court of Rome. Thirdly, donation of bishopricks and other Ecclesiasticall benefices; And fourthly, exemption of Clarkes from the secular power. And you see withall, how our Kings and Parliaments haue from time to time opposed and withstood this vniust vsurpation.

Now then the Bishop of Rome hauing claimed and wel nie recouered full and sole iurisdiction in all causes Ecclesiasticall, and ouer all persons Ecclesiasticall, with power to dispose of all Ecclesiasticall benefices in England, whereby he had vpon the matter made an absolute conquest of more than halfe the kingdome (for euerie one that could read the Psalme of Miserere was a Clarke, and the Clergie possessed the moytie of all temporall possessions.) there remained now nothing to make him owner and proprietor of all, but to get a surrender of the Crowne, and to make the King his Farmer, and the people his Villaines; which he fully accomplished and brought to passe in the times of King Iohn and of Henry 3.

The cause of the quarrell betweene K. Iohn and the Pope.

The quarrell betweene the Pope and King Iohn which wrested the Scepter out of his hand, and in the end brake his heart, began about the election of the Archbishop of Canterbury. I call it election, and not donation or inuestiture; for the manner of inuesting of Bishops by the Staffe and Ring after the time of King Henry 1. was not any more vsed, but by the King's licence they were

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Canonically elected, and being elected, the King gaue his Roiall assent to their election, and by restitution of their temporalties did fully inuest them. And though this course of election began to be in use in the time of Richard 1. and Henry 2, yet I find it not confirmed by any Constitution or Charter before the time of King Iohn; who by his Charter dated the fifteenth of Ianuary, in the sixteenth yeare of his Raigne, granted this priuiledge to the Church of England, in these words, viz. *Quod qualiscunque consuetudo temporibus prædecessorum nostrorum hactenus in Ecclesia Anglicana fuerit obseruata, et quidquid iuris nobis hactenus vindecauerimus, de cætero in vniuersis et singulis Ecclesijs et Monasterijs, Cathedralibus et Conuentualibus, totius regni Angliæ liberæ sint in perpetuum electiones, quorumcumque Prælatorum maiorum et minorum. Salua nobis et hæredibus nostris custodia Ecclesiarum et Monasteriorum vacantium quæ ad nos pertinent. Promittimus etiam quod nec impediemus nec impediri permittimus per ministros nostros, nec procurabimus, quin in vniuersis et singulis Monasterijs et Ecclesijs postquam vacuerint prælaturæ, quēcumque voluerint liberè sibi præficiant electores Pastorum, petita tamen à nobis prius et hæredibus nostris licentia elegendi quam non denegabimus nec differemus: Et similiter post celebratam electionem, noster requiratur assensus, quem non denegabimus, nisi aduersus eandem rationale proposuerimus, et legitimè probauerimus propter quod non debemus consentire, &c.*

When Canonical election began first in England.

But to returne to the cause of his great quarrell with the Pope. The Sea of Canterbury being voyd, the Monkes of Canterbury suddenly and

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secretly without the King's licence elected one Reignold their Subprior to be Archbishop, who immediately posted away to be confirmed by the Pope. But when he came there, the Pope reiected him because he was not recommended from the King. Hereupon the Monkes made suite to the King to nominate some fit person to whose election they might proceed. The King commends Iohn Gray, Bishop of Norwich, his principall Counsellor, —who was afterwards Lord Iustice of the kingdome —who with a full consist was elected by them, and afterwards admitted and fully inuested by the King. These two elections bred such a controuersie, as none might determine but the Pope, who gaue a short rule in the Case; for he pronounced both elections void, and caused some of the Monkes of Canterbury who were then present in the Court of Rome, to proceed to the election of Stephen Langton, lately made Cardinall at the motion and suite of the French King; who being so elected, was forthwith confirmed and consecrated by the Pope, and recommended to the King of England with a flattering letter, and a present of foure Rings set with precious stones; which were of great value and estimation in those daies. Howbeit the King more esteeming this Iewell of the Crowne, namely the patronage of Bishopricks, returned a round and Kingly answere to the Pope, That inconsiderately and rashly he had cassed and made void the election of the Bishop of Norwich, and had caused one Langton, a man to him vnknowne, and bred vp and nourished by his mortall enemies, to be consecrated Archbishop; without any due forme of election, and without his royall assent,

King Iohn's round and Kingly letter to the Pope.

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which was most of all requisite by the ancient lawes and customes of his Realme. That he merueiled much, That the Pope himselfe, and the whole Court of Rome did not consider, what a precious account they ought to make of the King of England's friendship, in regard that his one kingdome did yeeld them more profit and reuenew than all the other countries on this side the Alpes. To conclude, he would maintain the liberties of his Crowne to the death; he would restraine all his subiects from going to Rome; and aince the Archbishops, Bishops, and other Prelates within his dominions were as learned as any other in Christendome, his subiects should bee iudged by them in Ecclesiasticall matters, and should not need to runne out of their owne countrey, to beg Iustice at the hands of strangers.

The Pope curseth the King, and interdicteth the Realme.

But what followed vpon this? The Pope after a sharpe reply, sendeth forth a Bull of malediction against the King, and of interdiction against the Realme, whereby all the Churches in England were shut vp; the Priests and religious persons were forbidden to vse any Liturgies or Diuine Seruice; to marry, to bury, or to performe any Christian duty among the people. This put the King into such a rage, that he on the other part seised the temporalities of all Bishops and Abbots, and confiscated the goods of all the Cleargie. Then doth the Pope by a solemne sentence at Rome depose the King, and by a Bull sent into England, dischargeth his subiects of their allegeance, and by a Legate sent to the King of France, gaue the kingdome of England to him and his successors for euer.

These things brought such confusion and miserie

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to all estates and degrees of people in England, as the King became odious to all his subiects, as well to the Laytie as to the Cleargie. For as the Bishops and religious people cursed him abroad, so the Barons tooke armes against him at home, till with much bloudshed they forced him by granting the Great Charter to restore King Edward's lawes containing the antient liberties of the subiects of England. The Pope being a spectator of this Tragedy, and seeing the King in so weake and desperate estate, sent a Legate to comfort him, and to make a reasonable motion vnto him; to wit, that he should surrender and giue vp his Crown and kingdome to the Pope, which should be regranted vnto him againe, to hold in Feefarme and vassalage of the Church of Rome: and that thereupon the Pope would blesse him and his Realme againe, aud curse his rebells and enemies in such sort as hee should be better establisht in his kingdome then he was before. In a word, this motion was presently embraced by that miserable King, so as with his owne hands he gaue vp the Crowne to the Pope's Legate, and by an instrument or Charter sealed with a Bull or seale of gold, he granted to God and the Church of Rome the Apostles Peter and Paul, and to Pope Innocent the third and his successors, the whole kingdome of England, and the whole kingdome of Ireland: and tooke backe an estate thereof by an instrument sealed with Lead, yeelding yearely to the Church of Rome ouer and aboue the Peter pence a thousand marks sterling, viz. seuen hundred markes for England, and three hundred markes for Ireland, with a flattering sauing of all his liberties and Royalties. The Pope had no

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sooner gotten this conueiance, though it were void in law, but he excommunicateth the Barons, and repeales the Great Charter, affirming that it contained liberties too great for his subiects; cals the King his vassall, and these kingdomes Saint Peter's patrimony; grants a generall Bull of Prouision for the bestowing of all Ecclesiasticall benefices, and takes vpon him to be absolute and immediat Lord of all. And thus vnder colour of exercising iurisdiction within these kingdomes, the Pope by degrees, got the very kingdoms themselues. And so would hee doe at this day, if the King would giue way to his iurisdiction.

But what vse did the Pope make of this grant and surrender of the Crowne vnto him? What did he gaine by it, if our Kings retained the profits of their kingdomes to their own vse? Indeed we doe not find, That the Feefarme of a thousand markes was euer payd, but that it is all run in arreare till this present day. For the troth is, the Court of Rome did scorne to accept so poore a reuenew as a thousand markes per annum out of two kingdomes. But after the death of King Iohn, during all the raigne of Henry 3, his sonne, the Pope did not claime a Seigniory or a rent out of England and Ireland, but did endeauour to conuert all the profits of both lands to his owne vse, as if hee had beene seised of all in demesne. For whosoeuer will read Matthew Paris, his story of the time of King Henry 3, will say these things spoken of before, were but the beginning of euils. For the exactions and oppressions of the Court of Rome were so continuall and intollerable, as that poore Monke who liued in those times, though otherwise he adored the Pope, doth call England

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Baalam's Asse, loaden, beaten, and enforced to speake; doth call the Court of Rome *Charybdis* and *barathrum auaritiæ*, the Pope's Collectors Harpies, and the Pope himselfe a Stepfather, and the Church of Rome a Stepmother. He sheweth that two third parts of the Land being then in the hands of Churchmen, the entire profits thereof were exported to enrich the Pope, and the Court of Rome, which was done for the most part by these two waies and meanes. First, by conferring the best Ecclesiasticall benefices vpon Italians, and other strangers resident in that Court; whose farmers and factors in England tooke the profits, turned them into money, and returned the money to Rome. Secondly, by imposing continuall taxes and tallages (worse than Irish cuttings) being sometimes the tenth, sometimes the fifteenth, sometimes the third, sometimes the moytie of all the goods both of the Cleargie and Laytie, vnder colour of maintaining the Pope's holy warres against the Emperour and the Greeke Church, who were then said to be in rebellion against their Lady and mistresse the Church of Rome. Besides, for the speedy leuying and safe returne of these moneyes, the Pope had his Lumbards and other Italian Bankers and vsurers resident in London and other parts of the Realme; who offered to lend and disburse the moneys taxed, and returne the same by exchange to Rome, taking such penall bands, the forme whereof is set downe in Matthew Paris; and such excessiue vsury, as the poore religious houses were faine to sell their Chalices and Copes, and the rest of the Cleargie and Laity had their backes bowed, and their estates broken vnder the burthen. Besides, the Pope tooke for

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perquisits and casualties, the goods of all Clarkes that died intestate, the goods of all Vsurers, and all goods giuen to charitable vses. Moreouer hee had a swarme of Friers (the first corrupters of Religion in England) who perswaded the Nobility and Gentrie to put on the signe of the Crosse, and to vow themselues to the holy warres, which they had no sooner done, but they were again persuaded to receiue dispensations of their vowes, and to giue mony for the same to the Church of Rome. I omit diuers other pollicies then vsed by the Pope's Collectors to exhaust the wealth of the Realme; which they affirmed they might take with as good a conscience as the Hebrewes tooke the Iewells of the Egyptians. Brieefly, whereas the King had scarce meanes to maintaine his Royall family, they receiued out of England seuenty thousand pounds sterling at least, yearely, which amounteth to two hundred and tenne thousand pounds sterling of the moneys currant at this day. Besides, they exported sixe thousand markes out of Ireland at one time, which the Emperour Fredericke intercepted. Lastly, the King himselfe was so much deiected, as at a Royall feast hee placed the Pope's Legate in his owne Chaire of Estate, himselfe sitting on his right hand, and the Bishop of Yorke on his left, *non sine multorum obliquantibus oculis*, saith Matthew Paris.

Thus we see the effects of the Pope's iurisdiction within the dominions of the King of England. Wee see to what calamity and seruitude it then reduced both the Prince and people. Was it not therefore high time to meet and oppose those inconueniences? Assuredly if King Edward 1. who was the Sonne and heire of Henry 3, had in-

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herited the weaknes of his father, and had not resisted the vsurpation and insolencie of the Court of Rome, the Pope had beene proprietor of both these Ilands, and there had beene no King of England at this day.

King Edw. 1. opposeth the Pope's vsurpation.

But King Edward 1. may well be styled *vindex Anglicæ libertatis*, the Moses that deliuered his people from slauery and oppression; and as he was a braue and victorious Prince, so was he the best *Pater patriæ* that euer reigned in England since the Norman Conquest, till the coronation of our gracious Soueraign. At the time of the death of his father he was absent in the warre of the Holy Land, being a principall Commander of the Christian Armie there, so as he returned not before the second yeare of his raigne. But hee was no sooner returned and crowned, but the first worke he did, was to shake off the yoke of the Bishop of Rome. For the Pope hauing then summoned a Generall Counsell, before he would licence his Bishops to repaire vnto it, he tooke of them a solemne oath, that they should not receiue the Pope's blessing. Againe, the Pope forbids the King to warre against Scotland: the King regards not his prohibition: he demands the first-fruits of Ecclesiasticall liuings: the King forbids the payment thereof vnto him. The Pope sendeth forth a General Bull, prohibiting the Clergie to pay subsidies or tributes to temporall Princes. A tenth was graunted to the King in Parliament, the Cleargie refused to pay it: the King seiseth their temporalities for their contempt, and got payment notwithstanding the Pope's Bull. After this hee made the statute of Mortmain, wherby he brake the Pope's chiefe net, which

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within an age or two more would haue drawne to Church all the temporall possessions of the kingdome, &c. Againe, one of the King's subiects brought a Bull of excommunication against another: the King commandeth hee should bee executed as a traytor, according to the ancient law. But because that lawe had not of long time beene put in execution, the Chancellor and Treasurer kneeled before the King, and obtained grace for him, so as he was onely banished out of the Realme. And as he iudged it treason to bring in Bulls of excommunication, so he held it a high contempt against the Crowne, to bring in Bulls of Prouision, or breefes of citation, and accordingly the law was so declared in Parliament 25. Edward 1. which was the first statute made against Prouisors, the execution of which law, during the life of Edward 1. did well nie abolish the vsurped iurisdiction of the Court of Rome, and did reuiue and restore againe the ancient absolute Soueraigne of the King and Crowne of England.

E. 2. suffereth the Pope to vsurpe againe.

His successor K. Edward 2. being but a weake Prince, the Pope attempted to vsurpe vpon him againe, but the Peeres and people withstood his vsurpation: And when that vnhappy King was to be deposed, amongst many articles framed againt him by his enemies, this was one of the most heinous, that hee had giuen allowance to the Pope's Bulls.

Againe, during the minority of King Edward 3. and after that, in the heat of the warres in France, the Pope sent many Breefes and Bulls into England, and at last presumed so farre, as that he gaue an Italian the name of Cardinall in England, and withall by his Bull gaue him power to bestow all

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Ecclesiasticall promotions as they should fall void from time to time. This moued the King and the Nobility to write to the Pope, to this effect: Wee and our ancestors haue richly indowed the Church of England, and haue founded Abbeyes and other religious houses for the iurisdiction of our people, or maintenance of hospitalite, and for the aduancement of our countreymen and kinsmen. Now you prouide and place strangers in our benefices, that come not to keepe residence thereupon, and if they come, vnderstand not our language, and some of them are subiects to our mortall enemies: by reason whereof our people are not instructed, hospitalite is not kept, our schollers are vnpreferred, and the treasurer of the Realme is exported. The Pope returneth answer, That the Emperour had lately committed himselfe to the Church of Rome in all points, and was become the Pope's great friend; and in menacing manner aduised the King to doe the like. The King replyes, That if the Emperor and French King both should take his part, he was ready to giue battaile to both, in defence of the liberties of his Crowne. Hereupon the seuerall statutes against Prouisors before recited, were put into execution so seuerely, as the King and his subiects enioyed the right of patronage cleerely, and their exemption of Clerkes tooke no place at all, for that the Abbot of Waltham and Bishop of Winchester, were both attainted of high contempts, and the Bishop of Ely of a capitall offence, as appeareth in the records of this King's raigne. Yet during the nonage of Richard 2. they began once again to encroach vpon the Crown, by sending Legates, and Bulls and Breefes into

E. 3. resisteth the vsurpation of the Pope.

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England, whereof the people were so sensible and impatient, as that at their speciall prayer this law of 16. Rich. 2. (whereupon our indictment is framed) was enacted, being more sharpe and penall, than all the other statutes against Prouisors. And yet against this King, as against Edward 2. it was obiected at the time of his depriuation, that he had allowed the Pope's Bulls, to the enthralling of the Crowne.

King Rich. 2.

After this, in the weake time of King Henry 6, they made one attempt more to reuiue their vsurped iurisdiction, by this policy: The Commons had denied the King a Subsidy, when he stood in great want of moneyes. The Archbishop of Canterbury and the rest of the Bishops offered the King a large supply of his wants if he would consent, that all the lawes against Prouisors, and specially this law of 16. Richard 2. might bee repealed. But Humfrey Duke of Glocester, who had lately before cast the Pope's Bull into the fire, did likewise cause the motion to be reiected: So as by speciall prouidence these lawes haue stood in force euen till this day in both these kingdomes.

The euidence against Lalor.

Then the Atturney generall descended to the euidence, whereby he prooued fully all the parts of the indictment. First, it was prooued by Lalor's owne confession vpon seuerall examinations taken before the Lord Deputie, and Lord Chancellor, and others, that he had accepted the office and title of Vicar Generall in the Dioceses of Dublin, Kildare, and Fernes, by vertue of the Pope's Bull. Secondly, it appeareth by the copies of sundry letters found among his papers at his apprehension, that hee styled himselfe the Pope's Vicar, in this forme; *Robertus Dublinien. et Kil-*

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daren. et Fernen. Diocæs. Vicarius Apostolicus. Thirdly, there were produced the copies of diuers Acts and Instruments written for the most part with Lalor's owne hand; some of institutions of Popish Priests to benefices, others of dispensation of marriage within the degrees, others of diuorces, others of dispensation for non-payment of Tythes. Whereby it was manifestly prooued, that hee did execute the Pope's Bull, in vsurping and exercising Episcopall iurisdiction as Vicar Generall of the Sea Apostolike, within the Dioceses before named.

To this euidence he made a threefold answere, first, that hee was no suiter for the office of Vicar generall, but it was imposed on him, and he accepted *virtute obedientiæ*, onely to obey his Superiors: next, that he did exercise the office of Vicar generall *in foro conscientiæ tantum*, and not *in foro iudicij*. And lastly, that those copies of institutions, dispensations, and diuorces were many of them written with his man's hand, as precedents of such acts and instruments, without his priuity or direction. Hereupon Sir Iames Ley chiefe Iustice, told him, that he could not well say, that he accepted that vnlawfull office *virtute obedientiæ*, for there was no vertue in that obedience: that he ow'd an obedience to the lawe, and to the King, who is the true Superior and Soueraigne ouer all his subiects, and hath no Peere within his dominions, and that the Superiors, whom he meant and intended, were but vsurpers vpon the King's iurisdiction; and therefore this excuse did aggrauate his contempt, in that it appeared hee had vowed obedience to those who were apparant enemies to the King and his Crown. And though it were manifest that he exercised iurisdiction *in foro iudicij* (for euery

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institution is a iudgement, and so is euery sentence of diuorce) yet were his offence nothing diminished if he had executed his office of Vicar generall *in foro conscientiæ*, for the court of man's conscience is the highest tribunall, and wherein the power of the keyes is exercised in the highest degree.

Hereunto the Atturney generall tooke occasion to adde thus much, That Lalor had committed these high offences not onely against the lawe, but against his owne conscience, and that he was already condemned *in foro conscientiæ*. For that he vpon his second examination had voluntarily acknowledged himselfe not to be a lawfull Vicar generall, and that he thought in his conscience, he could not lawfully take vpon him the said office. He hath also acknowledged our Soueraign Lord K. Iames, to be his lawfull chiefe and Supreame Gouernour, in all causes as well Ecclesiasticall as Ciuile, and that he is in conscience bound to obey him in all the said causes, and so forth, as it is conteined in his acknowledgement or confession before set downe; which being shewed foorth by the Atturney generall, the Court caused it to be publikely read, and therupon demanded of Lalor, if that were not his free and voluntary confession signed with his owne hand and confirmed by his oath, before the Lord Deputie and Counsell. He was not a little abashed at the publishing of this acknowledgment and confession, in the hearing of so many principall Gentlemen, to whom he had preached a contrary doctrine; therefore said he, the shewing forth of this confession is altogether impertinent and besides the matter. Howsoeuer hee could not deny but that he made it, and signed it and swore

Lalor's confession publikely read.

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it, as it was testified by the Lords Deputie and the rest.

Then was it demanded of him, whether since the making of this confession, he had not protested to diuers of his friends, that he had not acknowledged the King's supremacie in Ecclesiasticall causes. His answer was, That indeed he had said to some of his friends who visited him in the Castle of Dublin, that he had not confessed, or acknowledged, that the King was his Supreame Gouernour *in spirituall causes*, for that the truth is, in the confession there is no mention made of spirituall causes, but of Ecclesiasticall.

This is a subtile euasion indeed, said the Atturney generall: I pray you what difference doe you make between Ecclesiasticall causes, and spirituall causes? This question said Lalor is sudden and vnexpected at this time, and therefore you shall doe well to take another day to dispute this point. Nay, said the Atturney generall, we can neuer speake of it in a better time, or fitter place; and therefore though you that beare so reuerend a title, and hold the reputation of so great a Clarke, require a further time, yet shall you heare, That we Lay-men that serue his Maiestie, and by the dutie of our places are to maintaine the iurisdiction of the Crowne, are neuer so vnprouided but that we can say somewhat touching the nature and difference of these causes.

When the distinction of Ecclesiasticall and spirituall causes, from Ciuile and temporal causes began in the world.

First then, let vs see, when this distinction of Ecclesiasticall or spirituall causes, from Ciuile and temporall causes, did first begin in point of iurisdiction. Assuredly for the space of three hundred yeares after Christ, this distinction was not knowne or heard of in the Christian

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world. For the causes of Testaments, of Matrimonie, of Bastardy, and Adultery, and the rest which are called Ecclesiasticall or spirituall causes, were meerely Ciuile, and determined by the rules of the Ciuile Law, and subiect onely to the iurisdiction of the Ciuile Magistrate, as all Ciuilians will testifie with me.

But after that the Emperours had receiued the Christian faith, out of a zeale and desire they had, to grace and honor the learned and godly Bishops of that time, they were pleased to single out certaine speciall causes, wherein they granted iurisdiction vnto the Bishops: namely, in cases of Tyths, because they were paid to men of the Church: In causes of Matrimony, because marriages were for the most part solemnized in the Church: In causes Testamintary, because testaments were many times made *in extremis*, when Churchmen were present, giuing spiritual comfort to the testator, and therfore they were thought the fittest persons to take the probates of such testaments. Howbeit these Bishops did not proceed in these causes according to the Canons and decrees of the Church (for the Canon Law was not then hatched or dream't off) but according to the rules of the Imperiall law, as the Ciuile magistrate did proceed in other causes, neither did the Emperours in giuing this iurisdiction vnto them, giue away their own Supreme and absolute power, to correct and punish these iudges, as well as others, if they performed not their seuerall duties. This then is most certain, that the primitiue iurisdiction in all these causes, was in the Ciuile magistrate, and so in right it remaineth at this day, and

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though it be deriued from him, it remaineth in him, as in a fountaine. For euery Christian Monarch (as well as the godly Kings of Iuda) is *custos vtriusque tabulæ*, and consequently hath power to punish not onely Treason, Murder, Theft, and al maner of force and fraude, but incest, adultry, vsury, periury, simony, sorcery, idolatry, blasphemy: neither are these causes in respect of their owne quality and nature, to be distinguished one from another, by the names of Spirituall or Temporall; For why is adultery a spirituall cause, rather than murther, when they are both offences alike against the second table? or idolatry rather than periury, being both offences likewise against the first table? And indeed if wee consider the natures of these causes, it will seeme somewhat absurd, that they are distinguished by the name of spirituall and temporall, for to speake properly, that which is opposed to spirituall, should be tearmed carnall: and that which is opposed to temporall should be called eternall. And therefore if things were called by their proper names, adultry should not be called a spirituall offence, but a carnall. But shall I expresse plainly and briefely, why these causes were first denominated, some spirituall or Ecclesiasticall, and others temporall and ciuile?

Truely, they were so called not from the nature of the causes, as I said before, but from the qualitty of the persons, whom the Prince had made iudges in those causes. The Cleargie did study spirituall things, and did professe to liue *secundum spiritum*, and were called spirituall men; and therefore they called the causes wherein Princes had giuen them

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iurisdiction, spirituall causes, after their owne name and quality. But because the Lay magistrates were said to intend the things of this world, which are temporall and transitory, the Cleargie called them secular or temporall men, and the causes wherein they were iudges, temporall causes. This distinction began first in the Court of Rome, where the Cleargie hauing by this iurisdiction gotten great wealth, their wealth begot pride, their pride begot ingratitude towards Princes, who first gaue them their iurisdiction, and then, according to the nature of all vngratefull persons, they went about to extinguish the memory of the benefit: for wheras their iurisdiction was first deriued from Cæsar, in the execution whereof they were Cæsar's iudges, so as both their Courts and causes, ought still to haue born Cæsar's image and superscription, as belonging vnto Cæsar, they blotted Cæsar's name out of the style of their Courts, and called them Courts Christian, as if the Courts holden by other magistrates had bin in comparison but Courts of Ethnickes, and the causes which in their nature were meerely Ciuile, they called Spirituall and Ecclesiasticall. So as if the Emperour should challenge his Courts and causes againe, and say, *Reddite Cæsari, quæ sunt Cæsaris,* they would all cry out on the contrary part and say, *date Deo quæ sunt Dei:* our Courts beare the name and title of Christ, the superscription of Cæsar is quite worne out, and not to be found vpon them. And this point of their policy is worth the obseruing, that when they found their iurisdiction in matrimoniall causes, to be the most sweet, and gainefull of all other (for of Matrimony they made matter-of-money indeed)

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to the end that Cæsar might neuer resume so rich a perquisit of their spirituall iurisdiction, they reduced Matrimony into the number of the 7 Sacraments. After which time it had been sacriledge, if the Ciuile magistrate had intermedled with the least matter that had relation to Matrimonie, or any dependancie thereupon. So then yet appeareth, that all causes whereof Ecclesiasticall or spirituall persons haue cognisans, or iurisdiction by the grants or permission of Princes, are called Ecclesiasticall or spirituall causes. And as all their Courts are called spirituall Courts, so all causes determinable in those Courts are called spirituall causes. And therefore where M. Lalor hath acknowledged the King's Maiestie to bee Supreame Gouernour in all Ecclesiasticall causes, he hath therein acknowledged the King's Supremacie in all spirituall causes, wherin he hath but rendered to Cæsar but that which is Cæsar's, and hath giuen vnto his Maiestie no more, than all the Bishops of England haue yeelded to his predecessors, not onely in this latter age, but also in former times both before and since the Conquest, as hath bin before at large expressed.

Here the day being farre spent, the Court demanded of the prisoner, if he had auy more to say for himselfe: his answer was, That he did willingly renounce his office of Vicar generall, and did humbly craue his Maiestie's grace and pardon. And to the end, he desired the Court to mooue the L. Deputy to be fauourable vnto him. Then the Iury departed from the Barre, and returning within halfe an houre, found the prisoner guilty of the contempts whereof he was indicted. Whereupon the Solicitor Generall mooued the Court to

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proceede to iudgement: and Sir Dominicke Sarsfield, Knight, one of the Iustices, of her Maiestie's chiefe place, gaue iudgement according to the forme of the statute, whereupon the indictment was framed.

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(*b*) THE RESOLUTION OF THE JUDGES, TOUCHING THE IRISH CUSTOME OF GAVELKINDE,

[HILLAR 3. IACOBI. f 49—50.]

Le Resolution des Iustices touchant le Irish Custome de Gauelkind.

PRIMERMENT est ascauoir, que les terres possesse per les meere Irish deins cest realme, fueront diuide en seuerall territories ou countries: & les enhabitāts de chescun Irish country, fuerōt diuide en seuerall Septs ou linages.

Secondm̄t, en chescū Irish territory fuit vn seignior ou chiefetaine, & vn Tanist qui fuit sō successor apparant. Et de chescū Irish Sept ou linage fuit auxy vn chiefe, q fuit appell Canfinny, ou caput cognationis.

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Tiercement, touts les possessions deins ceux Irish territories (deuant que le cōmon ley D'englętre fuit establish y tout le realme, cōe ore est) curgeont toutfoits, ou en course de Tanistry, ou en course de Gauelkind.. Chescun seigniory ou chiefry oue le portion de terre que passoit oue ceo, aloit sans partition al Tanist, que toutfoits veignoit eins per election, ou fort maine, & nemy per discent. Mes touts le inferior Tenancies fueront partible enter les males, en Gauelkind.

Uncore le estate que le seignior auoit en le chiefry, ou q les inferior tenants auoent en Gauelkind, ne fuit estate de enheritance, mes vn temporary, ou transitorie possession. Car sicome le prochein, heir del seigñ ou chieftaine, ne enheriteroit le chiefry, mes le plus cigne & plus digne ōl Sept (come est monstre deuant en le case Tanistry) que souentfoits fuit remoue & expel p vn auer que fuit plus actiue ou fort que luy: issint les tres de nature de Gauelkind, ne fueront partible enter les prochein heires males del cesty que morust seisie, mes enter touts les males de son Sept, en cō manner.

Le Canfinny ou chiefe de Sept (que fuit communement ne plus antient del Sept) fesoit touts les partitions p son discretion. Cest Canfinny, apres le mort de chescun tertenant que auoit competent portion de terre, assembloit tout le Sept, & aiant mise touts lour possessions Hotchpotch fesoit nouel partition de tout: En quel partition il ne assignoit a les fits de cesty que morust, le portion que lour pere auoit, mes il allottoit al chescun del Sept, solonque son antiquity, le melieur ou greinder purparty.

Ceux portions ou purparties issint estreant allotte & assigne, fueront possesse & enioy accordant, tanque

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nouel partition fuit fait, que al discretion ou volunt del Canfinny puissoit estre fait sur le mort del chescun inferior tenaunt. Et issint per reason de ceux frequent partitions & remooventes ou translations des tenants del vn porc al auter, touts les possessions fueront vncertaine, & le vncertainety des possessions fuit la very cause que nul ciuil habitations fueront erected, nul enclosure ou improuement fuit fait des terres, en les Irish countries ou cest oustome de Gauelkind fuit in vse, specialment en Vlster, que sembloit per tout destre vn wildernesse, deuant cest nouel plantation fait per les English vndertakers la. Et ceo fuit le fruit de cest Irish Gauelkind.

Auxy p cest Irish custome de Gauelkind les Bastards auoent lour purparties ou les legitimate, les femes fuerōt tout ousterm̄t exclude de Dower, & les files ne fueront inheritables, coment que lour Peremorust sans issue male. Issint que cest custome differoit vel custome de Gauelkind en Kent en 4. points.

Car 1. p le Custome de Kent le terre vel nature & tenure de Gauelkind est partible enter lez prochien hīs males tantū: & tiels coperceners apres partition auoent certaine estate de enheritance en lour purparties.

2. Les bastards ne sont admit denherit ouelm̄t auesqz les fits legitimate.

3. La feme de chesc̄ tertenant en Gauelkind endowable del moitie.

4. Pur default des males l's hīs females inheriterōt. Vide Lamb. in le Peramb. de Kent fol. 570.

Et p ceo cest custome de Gauelkind vse in Kent ad estre toutfoits allow & approue pur bone & loiall custome p la ley Dengleterre.

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Mes cō Irish custome de Gauelkind fuit agreeable en plusors de ceux points al custome de Gauelkind que fuit en vse North Gales: ql custome fuit reproue & reformē per le statute de Rutland fait 12. Ed. 1. Car la est dit, Quia hactenus mulieres non extiterant dotatæ in Wallia, Rex concedit quod dotentur. Et apres c est dit, q aliter vsitatū est in Wallia, quam in Anglia, quoad successionē hereditatis, eo qd hæreditas partibilis est inter hæredes masculos, & a tempore cuius non extiterit memoria, partibilis extitit: Dominus Rex non vult, quod consuetudo illa penitus abrogetur, sed qd hæreditates remaneāt partibiles inter consimiles heredes, sicut esse consueuerunt, hoc excepto, quod bastardi non habeant de cætero hæreditates, ac etiam quod non habeant propartes cum legitimis, nec sine legitimis. Et si forte hereditas aliqua extunc, pro defectu hæredis masculi, descendat ad legitimas mulieres hæredes vltimi antecessoris sui inde seisiti, volumus de gratia nostra speciali quod eodem modo mulieres legitimæ habeant propartes suas sibi inde in Curia nostra assignandas: licet hoc sit contra consuetudinem Wallensicam ante vsitatam. Vide le statute de 34. H. 8. cap. 28. Rastal Wales 32. ou le custome de Gauelkind en Wales est tout ousterment abolish, oue diuers auters vsages semblable al auters customes des Irish.

Pur ceux reasons, & c̄ pur que touts les dits Irish coūtries, & les inhabitants d'yceux de hors en auant fueront destre gouerne per les rules de la common ley Dengletre, fuit resolue & declare p touts les Justices, que le dit Irish custome de Gauelkind fuit void en ley, non solem̄t pur lenconuenience & vnreasonablenesse de ceo, mes pur ceo q fuit vn

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meere personal custome & ne puissoit alter le discent de enheritance.

Et pur ceo touts les terres en ceux Irish countries serront ore adiudge de discender accordant al course de common ley, & que les femes serront endow, & les files ferrōt enheritables de ceux terres, nient obstant cest Irish vsage ou custome.

Et ou les femes des Irish seigniors ou chieftaines, clamont de auer sole propertie en certaine portion de biens durant le couerture, oue power de disposer tiels biens sanz le assent de lour Barons. Fuit resolue & declare per touts les Iustices que le propertie de tiels biens serroit adiudge destre en les barons, & nemy en les femes couert, come la common ley est tiel case,

Cest resolution des Iustices, p le special order de seignior Deputy, fuit register enter les acts del Counsel: mes la cest prouision fuit ad a ceo, q si ascun de les meere Irish ad possesse & enioy ascun portion de terre p cest custome de Irish Gauelkind, deuant de commencement del Raigne de nostre seignior le Roy que ore est, que il ne serroit disturbe en son possession, mes serroit & establish en ceo. Mes que apres le commencement de sa Maiesties raigne touts tiels terres serront adiudge de discender a les heirs per la common ley, & serront adiudge dehors en auant possesse & enioy accordant.

(c) OPINIONS, CUSTOMES, NOTICEABLE PHRASES, &c.

1. The Case of customs payable for merchandize. (f 10).

Mes est destre note, que cest Petit custome p Forraigne commodities, fuit accept per le Roy,

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quaunt forsque petit quantity de tiels foraigne wares fuit import en Engletre. Car en temps Edw. 1. Et apres ceo, en temps Edw. 3. les natiue commodities de Engleterre exported fueront de greinder quantitie & value per 2. parts de 3. al meines, que les Foraigne marchandises imported : per que le roy E. 2. rasoit cy grand reuenue hors del natiue commodities de ses dominions : que est note de bone husbandrie en cest roy. Car oportet Patrem familias Vendacē esse, & non Emacem. Come Cato le seignior disoit. Mes ore est tout cōtrary : Car a cest tēps, le Outgate ē meind que le Ingate : les foreine wares imported sont de greinder quantitie & value per 2. pts que nostre natiue commodities exported. Que est graund honte a nostre Nation, destre issint enamor oue les Mercery & Grocery wares imports per strangers, & d expender sur eux plus que le value de touts les Staple & reall commodities de nostre Pais : que serra en fine le ruin del Commonweale.

TRANSLATION.

"But it is to be observed, that this small custom out of foreign commodities, was accepted by the king, when only a small quantity of such foreign wares were imported into England; for in the time of Edward I. and afterwards in the time of Edward III., the native commodities of England exported were of greater quantity and value, by at least two parts in three, than the foreign merchandises imported; by which King Edward III. raised a great reuenue out of the commodities of his dominions; which is a mark of good husbandry in that prince; for *oportet patrem familias venda-*

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cem esse, et non emacem, as Cato the elder said: but now things are otherwise, for the foreign wares imported are of greater quantity and value by two parts, than our native commodities exported; which is a great disgrace to our Nation, to be so allured by the mercery and grocery wares imported by strangers, and to expend on them more than the value in all the staple and real commodities of our country, which will in the end prove the ruin of the Commonwealth."

2. The Case of Mixed Money: [Trin. 2 Jacobi:] Necessity of Money: (f 19).

Primerment fuit consider, q en chescun commonwealth il besoigne dauer vn certein Standard de moneys.

Car nul commonwealth poet estre sans contracts, et nul contracts sans equalitie, et nul equalitie en contracts sans mony. Car com̄t q en les primer societies del mound, Permutation del vn chose p auter fuit vse, vncore bn̄ toft ceo fuit troue cumbersome, & le transportation et diuision des choses fuit trone difficult & impossible: & p ceo money fuit inuent, cibien p facilitie de commerce, q p reducer contracts al equalitie. Cum non facile concurrebat, vt cum tu haberes quod ego desiderarem, ego inuicem haberem, quod tu accipere velles: electa materia est, cuius publica & perpetua estimatio difficultatibus permutationū subueniret. Paulus libr. 1. ff. de Contrahendis Empt. Et p ceo mony est dit Per Bodin, mensura publica, & Budelius li. 1. de re Nūmaria ca. 3. dit, Moneta est iustum medium & mensura rerum commutabilium: nam p medium monetæ fit omnium

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rerum, quæ in mundo sunt, conueniès & iusta æstimatio. Et a cest entent Keble dit, 12. H. 7. fol. 23. b. q chescun chose poet estre value p Argent, p ql parol Argent il entend mony coined. Et le graund vtilitie del vn ctain Standard des monies et des measures, est bien monstre p Budelius en cest vers.

Vna Fides, Pondus, Mensura, Moneta sit vna,
Et status illæsus totius Orbis erit.

TRANSLATION.

"First, it was considered that in every Commonwealth, it is necessary to have a certain standard of money. For no Commonwealth can subsist without contracts, and no contracts without equality, and no equality in contracts without money. For although in the first societies of the world, permutation of one thing for another was used, yet that was soon found cumbersome, and the transportation and division of things was found difficult and impossible; and therefore money was invented, as well for the facility of commerce, as to reduce contracts to an equality: Cum non &c. and therefore money is said by Bodin to be *mensura publica:* and Budelius . . . . . saith, Moneta &c. And to this purpose Keble saith 12 H 7. 23 b. that everything ought to be valued per argent, by which word *argent*, he meaneth money coined. And the great utility of a certain standard of money and of measures is well expressed by Budelius in this verse, Vna fides &c.

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3. *Ibid: Sterling* (f 22-3).

Fuit resolue, que le dit Mixt money aiant le impression & le inscription de la roigne de Engletre, & esteant proclaime pnr loyall et currant money deins cest realme de Ireland, doet estre prise & accept p Sterling money: & sur consideration d cē point, le nosme & le nature de sterling mony fuit enquire & discouer. Par le nosme de sterling ascuns Doctors de la Ley ciuile esteant deceiue p le erronious report del Polidor Virgil, ont conceiue, que cest English money fuit appel sterling, p ceo que le forme dun stare, dōt le deminuitiue ē sterling fuit imprint ou stamp sur c. Et p c Couarruuias lib. de Collatione veterum numismatum c. 2. Sterling (dit il) est argenteus nummus Anglicus ex vicesima sexta parte vncie, nam viginti sex nummi argenti sterlingi, pendebant vnciam, Autore Polidoro Virgilio in historia Anglica, lib. 16. Dictus autē est hic nummus, vt idem author tradit, sterling, quod Sturnus auis, Anglicè, sterling, in altera parte nummi esset impressa. A mesme le entent Choppinus de domanio Franc. lib. c. tit' 7. ad cest noate. Cæterum Errico 3. Britanniæ Rege, primū percussa est nunc vsitatissima sterlingorū moneta, ab effigie sturni sic dicta, anno 1249. Ceux DD. esteant aliens, fueront come semble, miīnforme p Polidor Virgill, que fuit auxy vn Alien, & hospes in nostra Respublica: mes nostre Linwood auxy (que fesoit son glosse sur l's Prouincial constitutiōs de Engletre, en temps H. 6.) titul de Testamentis C. item quia verbo, Centum solidos, dit, que sterlingorū nomē erat argenteæ monet, & habetat similitudinem denarij vsualis, hoc saluo, quod in vna quarta habetat effigiem auis, quæ vocatur Sturnus, Anglices sterling.

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Auters ont estre de opinion, que cest english money avoit le nosme de sterling, pur ceo que le primer money de cest Standard fuit coigne in le castle de sterling in Scotland par le Roy Edw. I. Mes ceo est auxy erronious opinion, come est noate per Camden in Scotia pag. 700, ou il parlant del castle de sterling dit, Quod quidam monetā probam Angliæ quæ sterling money, dicitur, hinc denominatam volunt, frustra sunt, a Germanis enim, quos Angli Esterlinges ab Orientali situ vocarunt, facta est appellatio, quos Iohannes Rex ad argentum in suam puritatem redigendum, primus euocauit, & eiusmodi nummi, Esterlingi, in antiquis scripturis semper reperiuntur.

Et cest derraigne opinion, sans doubt, est le melieur et plus probable, per le Judgment de touts les bien doctes Antiquaries D'engleterre. Car en touts les auntient statutes, queux sesont mention de cest money, ceo cest appell Esterling. Come 9. Ed. 3. ca. 2. &c. Nul faux mony counterfeate Esterling ne soit emport en nostre Realme. Et eodem Anno cap. 3. Nul Esterling maile, ne ferlinge, soit found pur vessell, &c. Et 25. Edw. 3. cap. 13. que le money de Or & Argent que ore court, ne soit pas empaire en pois ne en Alloy, mes soit mise en lantient estate come en le esterling. Et Matth. Paris. Magn. hystor. fol. 403. ou il expresse le forme del obligation per le Clergie del Angleterre fait al Bankers del Pape resident en London, fait mention de cest money per nomen esterlingorum: noueritis nos recipisse ab A. & B. &c. centum vncias bonorum & legalium esterlingorum, tresdecim solidis & quatuor sterling is pro qualibet vncia computatis et en mesme le Autor fol. 710. eodem tempore, dit il, Moneta esterlingo-

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rum propter sui materiam desiderabilem, destestabili circumcisione cœpit deteriorari & corrumpi & fol. 575. Comitissa de Biarde venit ad Regem cum 60. militibus, ducta cupidine esterlingorum, quibus nouerat Regem Angliæ abundare, & accepit a Rege qualibet die p stipendio tresdecim libras esterlingorum, &c. Et Houenden in Richard I. f. 377. b. fait mention de cest money en ceux, parols, Videns igitur Galfridus Eboracensis electus quod nisi mediante pecunia amorē regis fratris sui nullaten' habere possit, promisit ei tria milia librarum sterlingorum pro amore eius habendo: & ceo fuit deuant le temps del roy Iohn, p que semble, que le temps qn̄t cest money fuit primerment coigne est incertaine. Car ascuns diont, que fuit fait p Osbright vn roy de Saxon race 160 ans deuant le Norman Conquest. Et issint, Sicut nummus dicitur à Numa q fuit le primer roy que sesoit monies en Rome, issint sterling dicitur ab Esterlinges, qux primes fesoent le money de cest Standard en Engleterre, per Metonymiam, cum inuentorem pro re inuenta ponimus vt Ceres pro frumento, Bacchus pro vino, &c.

Et est destre obserue, que les Esterlinges fueront les primer founders de les 4. principall cities del Ireland, viz. Dublin, Waterford, Corke, & Limerick, & del auters maritime villes en cest Realme, et fueront le sole maintainours de traffique et commerce, que fuit tout ousterm̄t neglect p les Irish. Ceux cities et villes fueront desouth le protection del roy Edgar, & Edw. le Confessor deuant le Norman conquest. Et ceux Esterlings en les antient records de cest realme sont appell Ostmanni. Et p ceo, quant H. 2. sur le primer conquest, pensoit mieux de peopler ceux cities &

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villes oue English colonies deduce de Bristow, & Chester, &c. il assignoit al ceux Ostmen certaine proportion de terre procheine adioynant al chescun des dits cities, quel portion est appell en les Records de auntient temps, Cantreda Ostmannorum. Et tout ceo fuit obserue sur le nosme de Sterling.

TRANSLATION.

"It was resolved that the said mixed money having the impression and the inscription of the Queen of England, and being proclaimed for lawful and current money within this kingdom of Ireland, ought to be taken and accepted for *sterling* money; and on consideration of this point, the name and the nature of *sterling* money were enquired and discovered. As to the name of sterling, some doctors of the Civil Law being deceived by the erroneous report of Polydor Virgil, have conceived that this English money was called sterling, because the form of a *stare*, the diminutive of which is sterling, was imprinted or stamped upon it, and therefore Couarruvius lib. *de collatione veterum numismatum* c. 2. sterling (saith he) *est argenteus, &c.* To the same purpose Choppinus &c. hath this note, Cæterum &c. These doctors being strangers were, it seems, misinformed by Polydore Virgil, who was also an alien and stranger; but our Linwood also (who made his gloss on the provincial constitutions of England, in the time of Hen. 6) saith, Sterling nomen &c. Others have been of opinion, that this English money had the name of sterling, because the first money of this standard was

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coined in the castle of Sterling in Scotland by king Edward I. but this is also an erroneous opinion, as is noted by Camden in Scotia, page 700, where speaking of Sterling castle, he saith that quidam &c. And this latter opinion, without doubt, is the better and more probable, by the judgment of all the most learned antiquarians of England. For in all the antient statutes which make mention of this money, it is called Esterling; as 9 Ed. 3. c 2. &c. "no false money counterfeit esterling shall be imported into our realm;" and the same year c 3. "no esterling half-penny or farthing shall be molten to make vessel" &c. and 25 Edw. 3. c. 13. "the money of gold and silver which is now current, shall not be impaired in weight or alloy, but shall be put in the antient state as in the esterling;" and Matthew Paris, Magn. Histor. fol. 403, where he expresses the form of the obligation made by the clergy of England to the Pope's bankers resident in London, makes mention of this money by the name of esterling, Noveritis &c. And the same author fol. 710 saith, Eodem &c. And Hovenden in Rich. 1. f. 377. makes mention of this money in these words Videns &c.; and this was before the time of King John; from whence it seems, that the time when this money was first coined is uncertain; for some say that it was made by Osbright a king of the Saxon race 160 years before the Norman Conquest. And so as Nummus is called for Numa who was the first king who made money in Rome, so sterling is called for the Esterlings who first made the money of this standard in England, by a metonymia, substituting the name of the inventor for the thing invented, as Ceres pro frumento, Bacchus pro vino

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&c. And it is to be observed that the Esterlings were the first founders of the four principal cities of Ireland, viz. Dublin, Waterford, Cork, and Limerick, and of the other maritime towns in this kingdom, and were the sole maintainers of traffick and commerce, which was utterly neglected by the Irish: these cities and towns were under the protection of King Edward and Edward the Confessor before the Norman Conquest; and these Esterlings in the antient records of this kingdom are called Ostmanni. And therefore, when Henry 2. upon the first conquest, thought it better to people those cities and towns with English colonies taken from Bristol, Chester, &c. he assigned to these Ostmen certain proportions of land next adjoining to each of these cities, which portion is called in the records of ancient times, Cantreda Ostmannorum. And all this was observed in the name Sterling."

4. The case of Tanistry: [Hill 5. Jac. in the King's Bench]: Uncertainty of 'dignissimo' (f 35—36.)

Fuit resolue, que cest custome fuit voyd pur le incertainty. Car ou per est custome le terre descendroit, Seniori & dignissimo viro sanguin & cognominis de cesty morust seisie, 1. le person est vncertaine, 2. le estate est vncertaine.

1. Pur le person a que le terre descendroit, coment a que seniori soit nosme assets certaine de prender estate, 26. Eli. Dier. 137. a. W. Humfreston conuey terre al vse de sa femme pur vie, le remainder Seniori puero de corpore ipsius W. legitime procreato, cest limitation de estate fuit assets certaine & bone. Car seniority consist en

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priority, de temps, & les distinctions & periods de temps secundum prius & posterius sont certaine, & poent estre bien proue & trie. Et pur ceo le seignior per priority (quant al gard del corps del heire) serra preferre deuant le seignior per posteriority, 11. Hen. 4. 18. 21. Ed. 3. 11. Stat' de W. 2. cap. 16. Et si leas pur vie soit fait, le remainder al cesty primes viendra al Powles, le remainder est bone, 12. H. 7. 28. issint 14. E. 3. Fitz. Barr. 177. Custome que le tenaunt que primes viendra al Bois, auera les windfals, cest bone, car le temps de primer vener poet estre bien trie, ou si limitation fuissoit al pluis procheine de sang, ceo ad estre assets certaine. 30. Ass. p. 47.

Mes cest parol dignissimo est cy vncertaine, que ne poet estre reduce al certaintie per ascun trial ou proofe. Car le dignitie de tiel home gist en le opinion de multitude, que est le plus incertaine chose de mounde.

Scinditur incertum studia in contraria vulgus.

Issint que ascuns dirront, que le plus docte et scauant home est le plus digne, ascuns que le plus valiant home, ascuns que le plus riche home, ascuns que le plus liberall home. Et issint que le multitude ne puissoit vnques agreer, et pur ceo le plus potent homefuit toutfoits preferr q est cōtrarie al touts leyes.

Inde datæ leges, ne fortior omnia posset.

Mest si serroit referre al Judgement de plus sage hōe que fuit vnques, de Judger que est le pluis digne home deins ascun pais, il prendroit bien long temps de aduiscem̄t en cest case.

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TRANSLATION.

"It was resolved that this custom was void for the uncertainty. For where by this custom the land is to descend, *seniori et dignissimo viro sanguinis et cognominis* of him who died seized. 1. The person is uncertain. 2. The estate is vncertain. 1. As to the person to whom the land is to descend, although *seniori* be a name certain enough to take an estate (26. El. Dyer 337. *a.*) W conveys land to the use of his wife for life, the remainder *seniori puero, &c.*, this limitation & estate was certain and good enough, for seniority consists in priority of time, and the distinctions and periods of time, *secundum prius et posterius* are certain, and may be well tried and proved, and therefore the lord by priority (as to the wardship of the body of the heir) shall be preferred to the lord by posteriority, 11. Hen. 4. 18. 21. Ed. 3. 11. Stat. de W. 2 c. 16. and if a lease for life be made, the remainder to him who shall first come to P., the remainder is good, 12 Hen. 7. 28: so 14 Edw. 3. Fitz. Barr. 177. a custom that the tenant who shall first come to the wood, shall have the windfalls, is good; for the time and first coming may be well tried; or if a limitation be to the next of blood, it would be certain enough, 30 Ass. p. 47: but the word '*dignissimo*' is so uncertain, that it cannot be reduced to certainty of a trial or proof; for the dignity of a man lieth in the opinion of the multitude, which is the most uncertain thing in the world: Scinditur &c. So that some will say, that the most learned and knowing man is the most worthy; some, the most valiant; some, that the richest; and some, that the most liberal; and

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so the multitude can never agree, and therefore the most powerful man was always preferred, which is contrary to all laws, Inde datæ &c. But if it were referred to the judgment of the wisest man that ever was, to judge who is the worthiest man in any country, he would take a long time to deliberate in such case."

5. *Ibid:* Difference between a royal and a despotic monarchy (f 40).

Car les Royes D'engleterre ont toutsfoits claime & eu deins lour Dominions, vn Monarchy Royall, & nemi vn Monarchy Seignioral ou Tiranny. Et desouth vn Monarchy Roiall les subiects sont Franck-homes, & ont property en lour biens, & Francktenement & enheritance en lour terres: mes desouth vn Monarchy Seignioral ou Tiranny, ils sont touts come villeins ou esclaues, & proprietors de rien forsque a volunt de lour Grand Seignior ou Tyrant, come en Turkey & Moscouy.

TRANSLATION.

"For the Kings of England have always claimed and had within their dominions, a royal monarchy and not a despotic monarchy or tyranny; and under a royal monarchy the subjects are freemen, and have a property in their goods, and a freehold and inheritance in their lands; but under a despotic monarchy or tyranny, they are all as villains or slaves, and proprietors of nothing but at the will of their Grand Seignior or tyrant, as in Turkey and Muscovy."

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6. The Case of a Commenda [Parch. 9 Jacobi, in the Common Pleas]: Pluralities (f. 80).

La cause pur que cest faculty ou dispensation fuit graunt nest repugnant ou contrary al Saint Escripture ou ley de Dieu. Car plurality de benefices nest prohibit per le Scripture ou ley de Dieu, mes é contra est vn expresse Text que dit, 1. Timoth. c. 5. Qui benè præsunt presbyteri duplici honoī digni habeantur; dicit enim Scriptura non alligabis os boui trituranti, &c. Et est alter Text que require, vt Episcopus sit Hospitalis, Et le principall cause de granting cest faculty fuit pur enabler le Evesque a maintener hospitality, come touts appropriations & vnions fuerunt fait pur mesme le cause. Auxi l'Office que l'Evesque aden l'Esglise est de grand dignity, quel dignity ne poet estre preserue sans countenance & maintenance. Pur que quant les revenewes del Evesquery ne sont sufficient, l'Ecclesiasticall policy que done competent addition per voy de Commendam, ne serra dit repugnant ou contrary al ley de Dieu.

TRANSLATION.

"The cause for which this faculty or dispensation was granted, is not repugnant or contrary to Holy Scripture or Law of God. For plurality of benefices is not prohibited by the Scripture or Law of God; but on the contrary there is an express text 1 Tim. c 5. which saith, "Let the elders that rule well, be counted worthy of double honour; for the Scripture saith, thou shalt not muzzle the ox, that treadeth out the corn, &c. And there is

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another text 1 Tim. c 3. which saith that "a bishop must be given to hospitality;" and the principal cause of granting this faculty, was to enable the bishop to maintain hospitality; as all appropriations and unions were made for the same cause. Also, the office, which a bishop hath in the Church, is a great dignity, which dignity cannot be supported without countenance and maintenance. Therefore, when the revenues of the bishopric are not sufficient, the ecclesiastical policy, which gives a competent addition, by way of commendam, shall not be said to be repugnant or contrary to the Law of God."

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IV.

Declaration of the King concerning the Title of his Son to the Duchy of Cornwall.

(1613.)

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NOTE.

George Chalmers and others, mention the "Declaration;" but none appears to have seen it. By a reference of T. E. Martin, Esq., Librarian, Inner Temple, Lincoln's Inn, I discovered a copy in the Grenville Library, British Museum, and afterwards another in the ordinary Library. Neither is entered under Sir John Davies. It is the rarest of his productions. On its authorship and other details, see our Preface in the present Volume.

The "Declaration" is printed in columns, Law-French on the left side, English on the other. I give a specimen of the former as Appendix A, along with the French title-page. Opposite this is the English title-page. G.

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THE DECLARA-tion of ovr So-veraigne Lord the King, By the deli-berate aduise and full assent, aswell of all the Lords and others of his Maiesties Priuie Councell,

As of the Mr. of the Rolles, And His Highnesse Covnsell learned in the Law, concerning the Title of His Maiesties most Noble and dearest Sonne CHARLES, the Prince, and Duke of Yorke, to the Duchy of Cornewall.

¶ Published by the Kings Maiesties commandement.

¶ Imprinted at London by ROBERT BARKER, Printer to the Kings most Excellent Maiestie. ANNO 1613.

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THE CASE OF THE DVCHIE OF CORNEWALL.

WHEREAS vpon the death of the late high and excellent Henry Prince of Wales, Duke of Cornewall, and Earle of Chester, his Maiestie's eldest sonne, some question and doubt was made, whether the high and excellent Prince Charles, Duke of Yorke, (his Maiestie's now eldest sonne) were by and after the death of his saide brother (*ipso facto*) Duke of Cornewall, and seized of the said Duchie by the Lawes and Statutes of this realme, or not: Forasmuch as the said question appeared to bee of great consequence, in respect that it concerned the inherent honour, not onely of the said Prince Charles for the present, but likewise of all such as should (by the death of a first-borne) become sonnes and heires-apparant to the Kings of this realme in all succeeding ages; and also in respect of the great and large possessions belonging to the said Duchie; the right and ordering whereof, and of all the officers, tenants, farmers, and occupiers of the same, and euery part thereof, doeth wholly depend vpon the

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resolution of the saide title of the saide Duke Charles thereunto. His Maiestie therefore out of his princely prouidence required to bee informed, how the law and former precedents stood in this case.

In the consideration whereof it appeared at the first view, that this doubt arose onely out of a literall construction of the word *filius primogenitus*, contained in that singular forme of limitation of the estate of the said Duchie made by patent, enacted by parliament, an. 11. of King Edward the third: whereby the King (reciting that hee had giuen to Edward Earle of Chester his first-begotten sonne the name and honour of Duke of Cornewall by consent of Parliament) did by the said patent also giue him the Duchie of Cornewall, and large possessions in the same patent, particularly set downe in these wordes: To haue and to hold, &c. to the sayd Duke, and to the first-begotten sonne of him and of his heires, Kings of England and Dukes of the said place, that hereditarily succeede in the kingdome of England. All which said castles &c. we doe by this our present patent, for vs and our heires annexe and vnite to foresaid Duchy, to remain vnto the same for euer: So as they may in no wise bee at any time separated from the said Duchie, nor be giuen, or any way granted by vs or our heires to any other or others, then vnto the Dukes of the said place. So also, that the foresaid Duke, or other Dukes of the same place deceasing, and a sonne or sonnes to whom the said Duchie is by vertue of our foresaid gift and grant knowen to belong, then not appearing: The said Duchie with the castles, &c. do returne to vs or our heirs Kings of England, to

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be reteined in our hands, and in the hands of our heires the Kings of England: Vntil such time, as such sonne and sonnes who shal be hereditarily to succeed in the said kingdome of England, as is aforesaid, shal appeare. Vnto whom, we do then for vs and our heires successiuely grant the said Duchie with the appurtenāces, and will haue it to be deliuered to bee so held, as is formerly expressed.

Whereupon some opinion hath been conceiued, that because the gift is *(filijs primogenitis)* that therefore no sonne can take by that limitation, except there were no sonne borne before him. So that the doubt or question onely consisteth, whether by the words, sence, and meaning of the said Statute of 11. Edw. 3. *Filius primogenitus natus* onely, or *filius primogenitus existens*, by the limitation of that Statute, be to be inheritor of the said Dukedome of Cornewall, and the possessions thereof.

The reasons and grounds that moued the King's most excellent Maiestie, and the Lords of his Highnesse Priuie Counsell, to conceiue and resolue concerning the trueth of the state of that Question, as in the end of this case is reported, were these.

The first, was the meaning, intention, and purpose of the said Statute of 11. Edw. 3. and the cause of the making thereof.

The second, was the precedents, example, vse, and practise euer since the making of the said Statute.

The third, the explanation and exposition of the true sense and meaning of the wordes in the sayd

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Statute contayned, (being *filius primogenitus*, or, (*filijs primogenitis*) as by Statutes and precedents both before the saide Statute of 11. Edward the thirde, and since appeareth.

As to the first point concerning the meaning, intention and purpose of the said Statute of 11. Edw. 3. and the cause of the making thereof.

First, that the word, (*primogenitus* in this Acte,) is not of so strict a sense, and that it is violence to the word to take it onely so: For it is both in letter, meaning, and common acceptation, vnderstood and taken, aswell for the first-borne in being, or the eldest sonne for the time, (which are words of one signification and vse) as for him that was originally the first borne, or had none other borne before him.

Secondly, it appeareth by the precedents and examples hereafter following, that the word (*Primogenitus*) is aswell to bee applied to him that stands *Filius Primogenitus* or eldest sonne, or *eisné fitz*, for the time, as to him that alwayes hath bene *Primogenitus*. And though the scruple bee made vpon the word (*Primogenitus*) and not vpon the English or French word (eldest, or *eisné*,) yet the reason is the same in all the wordes: for they are neither eldest, nor *eisnéz*, but in respect of the liuing, forgetting the dead, because they are not in being.

And if this construction bee in any case allowed, much more doeth the apparent motiue and purpose of this graunt of the Duchie of Cornewall, make the reason of this construction most plaine and forcible: For King Edward the third (being a mightie and glorious Prince, and intertayning in his minde

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great hopes, which it pleased God he did after also happily accomplish) conceiued it suteable to his owne greatnesse, to erect and create for his owne eldest sonne, and for the eldest sonnes of the Kings of England for euer after inheritable to the Crowne, an honour and dignitie, with possessions and liberties annexed, proportionable to their state and expectation. And therefore did make the grant and ordinance in question by Parliament, in the forme and words before recited.

Inasmuch therefore, as the eldest sonne in being inheritable to the Crowne, hath now the first place amongst the liuing, and the dead come not into accompt: since all the attributes of greatnesse and honour are deuolued vnto him, that were before in his elder brother deceased; since all the charges for supportation of the state, and magnificence of the first and eldest lye vpon him; since now it is saide of him, That hee is held as one person with the King himselfe; and that it is now high treason to conspire his death, (which is proper to the eldest sonne:) Doeth any man suppose, that the Parliament should deny him the title of Duke of Cornewall, and the possessions of the same Duchie, for whom God and Nature haue made a way to all the rights that may deserue it?

And (to make it appeare how absurd the consequence of this strict construction may prooue) suppose that the first begotten sonne should bee borne and die both in a day, so that a man might say of him, *oritur, moritur,* (and some first-borne haue been short-liued indeed:) Should this vntimely fruite shut vp the way to the dukedome against all his brethren, that should follow and liue to beare the heate and labour of the day?

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For it is true, that hee was *primogenitus*, and it is also true the he was *dux natus*, with his first breath a duke, and the possessions of the Duchie were by law (*ipso facto*) cast vpon him: For *primogenitus non suscipit magis et minus:* So as if no sonne of a king, but the meere first can be duke, it followeth of necessitie that the rest must bee excluded: which how farre it is from reason and from the intent and prouision of this law, euery eye can see. Yet it is true, that the word of the law must not be neglected, which appeareth plainely in the case of Richard (after Richard the Second) eldest sonne of the same Prince Edward, who died in the life of King Edward the Third his father: By meanes whereof the same Richard became lineall heire male to the King and Crowne: Yet because hee was not the eldest sonne of a king, but of a king's sonne, he was not Duke of Cornewall, by the right of that graunt and limitation, but was made duke by King Edward the 3. by his letters patents not by Parliament: And the limitation of the Duchie to him, was of the other and more common forme, To him, and to his heires Kings of England.

By which the precedents are strengthened: for it appeares that they passed not in silence, or by the improuidency of the State: For by this case of Richard. 2. the State appeareth to haue bene alwayes watchful and curious in discerning who were capable, and who not, of the Duchie by force of the saide limitation, being a case of so great marke and importance.

And by the same reason, no daughter and heire of the Kings of England, hath euer bene admitted to this title, though there hath bene both the Lady

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Mary the eldest daughter of King Henry. 8. and his heire apparant for a good time; and the Lady Elizabeth the eldest daughter of King Edward the Fourth, as beeing excluded by two parts of the limitation; for they were neither *filij primogeniti*, nor to succeed in the kingdome of England: For though daughters might succeed, and so did sometimes, yet that clause imports, that they must stand in certaine succession, which a daughter neuer doeth, because a sonne (whensoeuer borne) puts her out.

As to the second poynt, concerning the precedents and examples, that euer since the making of that statute haue happened or fallen within the compasse of this present question (viz. whether the second sonne of the King of England, inheritable to the Crowne, should be Duke of Cornewall, after the death of the eldest, or, *filius primogenitus*, of the king, dying without issue in the life of the king his father) they haue beene and are onely two: namely, Prince Edward (after King Edward the 6.) and Prince Henry (after King Henry the 8.) who were both second sonnes to the kings their fathers, and were both Dukes of Cornewall, without creation, but onely by the said statute of 11. Ed. 3.

For the first, to make a question whether Prince Edw. were Duke of Cornewall after the death of Henrie, the first-begotten sonne of King Henry the 8. were to mooue a question questionlesse: for the liuing yet doe well remember, and know the same. And the Records of that time doe apparantly iustifie and approoue it: and therefore will I forbeare to endeuour to proue that, which in it selfe and of

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it selfe is so questionlesse, apparantly and manifestly true.

The second precedent concerning the question aforesayd, was Prince Henry, second sonne to King Henry 7. who after the death of Prince Arthur his elder brother was Duke of Cornewall by birth without creation; for hee was neuer created Duke of Cornewall: The proofe whereof is as followeth

1. First, it appeareth, that King Henry the 7. in October, 19. of his reigne, granted a commission vnder the great Seale of England, to Gilbert Talbot, Knight, Counsellor to his dearest second begotten sonne Henry Duke of Cornewall, &c. Whereby it appeareth, that the king his father then conceiued and stiled him Duke of Cornewall, and yet called him by the same record his second begotten sonne.

2. Secondly, King Henry 7. in February, 19. of his reigne, in Parliament made by these words, (With the counsell and assent of the prelates, dukes, earles, and barons of our Kingdome of England being in this our present Parliament; wee haue made and created, and doe make and create Henry Prince of Wales and Earle of Chester, and we doe giue and graunt vnto the said Henry, the name, style, state, dignitie, and honour of the said principalitie and earledome, &c.) but did not create him Duke of Cornewall: which he would haue done, if he had not been Duke of Cornewall before by his birth without creation.

3. Thirdly, in the same Parliament of 19. Hen. 7. there passed an Act of Parliament in these words: Whereas it hath pleased Almighty God to cal the king's dearest sonne Henry Duke of Yorke

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to be now the king's heire-apparant, and Prince of Wales, Duke of Cornewall, and Earle of Chester, by reason whereof hee hath great and notable possessions: Wherefore it is for him conuenient to leaue and be discharged of the said name of Duke of Yorke, dignitie and preeminence thereof, and of all such annuities, fees, offices, and other possessions and hereditaments by the king's highnesse to him giuen and granted before the first day of this present Parliament: Be it therefore enacted, ordeined and established, by the aduise and assent of the Lords Spirituall and Temporall, and the Commons in this present Parliament assembled, and by the authoritie of the same, that the said erection and creation to the king's said sonne, made to him as the Duke of Yorke, and all his estate, dignitie and preeminence by reason of the same, and the annuitie to him granted by the king our soueraigne lord, of, for and vpon the same creation; and the lands, tenements, possessions, hereditaments, offices, or other things whatsoeuer they bee, to him heretofore giuen and granted by the king's letters patents, Act of Parliament or otherwise, bee from henceforth vtterly void and of none effect: Any graunts made by the king our soueraigne lord, or any Acts of Parliament heretofore made of, and for the same or any part or parcell thereof, to the contrary in any wise notwithstanding.

Whereby it plainly appeareth, First, that the King, Lords Spirituall and Temporall, and the Commōs of, and in the said Parliament, expressed and declared, that the said Prince Henry was Prince of Wales, Duke of Cornewall, and Earle of Chester; and yet was hee created but Prince of

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Wales, and Earle of Chester, and not Duke of Cornewall.

Secondly, it is in the said Acte plainely expressed, That the said prince thereby had great and notable possessions; which must of necessitie bee as belonging to the Duchie of Cornwall: For although hee was created Prince of Wales and Earle of Chester, yet had he no lands or possessions thereby to him graunted.

4. Fourthly, it appeareth that Prince Henry 27. Iulij 19. Hen. 7. gaue authoritie by his letters patents in these wordes following: Henry sonne of the most mightie Henry the 7. King of England, and France, and Lord of Ireland, Prince of Wales, Duke of Cornewall, and Earle of Chester, to our trustie and welbeloued Robert Willughby Lord of Brooke, Steward of our Duchie of Cornewall, Master Hugh Oldham, clerke, Amys Poulett, knight, Lewes Pollard, sergeant at law, Iohn More, Roger Holland, Peter Beuyll, Thomas Hobson, Hugh Moleneux, and Iames Eresey greeting, know ye that wee relying much vpon your fidelities and circumspections, haue assigned you ten, nine, eight, seuen, sixe, fiue, foure, three and two of you, (whereof wee wil haue some one of you the forenamed Roger Holland, Thomas Hobson, Hugh Moleneux, and Iames Eresey, to be of the quorum,) for our commissioners and assessors to assesse, demise, and let all and singular our possessions, lands, and reuenues at this time to be assessed and our stāneries, quarries, moores, and wasts, in the counties of Deuon and Cornewall, being of the Duchie of Cornewall, or belonging to that Duchie, as also those which they that be bondmen, or our tenāts in bondage doe hold of vs, or

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haue held of vs, or of our predecessors as of the foresaid Duchy, to any persōs whatsoeuer, that be fit and sufficient in this kind, for the terme of 7. yeeres; that terme to begin at the feast of S. Michael the Archangel next ensuing: To assesse, demise, and let all and singular the possessions, lands, and tenements and other the premisses, euen as vnto you ten, nine, eight, seven, sixe, fiue, foure, three, or two of you, (whereof we will haue some one of you the forenamed Roger Holland, Thomas Hobson, Hugh Moleneux, and Iames Eresey to be of the quorum) our said assessors, shall seeme best to be done for our profit and commoditie, and according to the custome of demising within the said Duchie in the like case, for such terme of yeres as hath bene anciently vsed. And further to suruey the reparations, defaults, decayes, and wasts of all and singular castles, lordships, manners, lands, tenemēts, mills, and all other the premisses thereunto belonging, that are to be appropriated to our vse and commoditie, and to do reparations. And further to inquire by the oath of honest and lawfull men, or by all other wayes and meanes that you best can or know, of all and singular defaults, exiles, wasts, damages, hūtings, of and in our forests, chaces, parkes, woods, and vnderwoods aforesaid, which doe belong vnto vs, done and committed to our damage and preiudice, and to what value they do particularly extend, and by what men or what man such wasts, spoiles, huntings, and sales, haue bene made, at what time, how and by what meanes. And we doe give strait commaundement to all and singular our officers, ministers, tenants, and seruants, that they and euery of them

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be attending, helping, and obedient vnto you ten, nine, eight, seven, sixe, fiue, foure, three and two of you, in doing and executing all and euery of the premisses, as is meete. In witnesse whereof wee haue caused these our letters to bee made patents.

Given vnder our Seale at our said most mighty lord and father his Mannour of Greenewich the 27. day of Iuly, in the 19. yeere of his reigne.

Who by vertue of the said commission, granted very many estats, and assessed many fines: which were payd and answered to the said Prince Henry, accordingly, as by the Ministers accompts of the date of 20. Hen. 7. appeareth in these words.

An assessement or a renting of all the lands and tenements of Henry son of the most mightie Henry the 7. King of England and France, and Lord of Ireland, Prince of Wales, Duke of Cornewall, and Earle of Chester, being of his Duchie of Cornewall in the counties of Cornewal and Deuon, made in the month of October, in the 20. yeere of the raigne of the foresaid king, by his trusty and welbeloued Robert Willughby Lord of Brooke, Steward of his Duchy of Cornewal, Master Hugh Oldhā, clerke, Amys Poulett, knight, Lewes Pollard, sergeant at law, Iohn More, Roger Holland, Peter Beuyll, Thomas Hobson, Hugh Moleneux, and Iames Eresey, assigned by the letters patents of the sayd Lord the Prince. &c.

5. Fiftly, it appeareth by a letters patents granted by King Henry 8. dated 15. Ianuarij anno 7. of his reigne, in these wordes: Where we in the time of our being Prince, before the death of our most deare father, late King, gaue and granted by our letters patents vnto our trustie and welbeloued counsellour Charles Booth, clerke, the

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roume and office of our chancellorship, and keeper of our great seales vnto vs belonging at that time, as Prince of Wales, and Duke of Cornewall, and an annual fee of threescore pounds by the yeere, by name of an annuall and accustomed fee to the same roume and office belonging, to be payd at the feasts of Michaelmas and Easter by euen portions out of our Duchie of Cornewall, of the issues and reuenues yeerely comming and growing of the same Duchie, by the hands of our Receiuer of our Duchie, or his deputies for the time being. Whereof he hath had due paiment and allowance during the life of our said father, &c. Whereby it is apparant that he was Duke of Cornewall in the life time of K. Henr. 7.

6. Sixtly, it appeareth by a commission graunted by the saide Prince Henry, anno 22. Hen. 7. in these words following: Henrie, sonne of the most mighty Henry the 7. King of England and France, & Lord of Ireland, Prince of Wales, Duke of Cornewall, and Earle of Chester, to our trusty and welbeloued Hugh by God's permission Bishop of Exceter, Robert Willughby lord of Brooke, steward of our Dukedome of Cornewall in the countie of Cornwall, Peter Beuyle, Iohn Chamond, Hugh Moleneux, Iohn Turner, Iames Eresey and Ioh. Walsh, greeting, Know ye, that wee relying much vpon your fidelitie and circumspection, do assigne you eight, seuen, sixe, fiue, foure, three, and two of you, (wherof we will haue some one of you the forenamed Iohn Chamond, Hugh Moleneux, Iohn Turner, Iames Eresey, and Iohn Walsh to be of the quorum) for our commissioners, and assessors, to assesse, demise, and let vnto any persons whatsoeuer, that be fit and sufficient in this kind, all and

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singular our possessions, lands and tenements, that are now to be assessed, and our stanneries, quarries, tolles of tinne, moores and wasts in the counties of Deuon and Cornwal, being of the Duchie of Cornewall, or belonging to the said Duchy, as well those, which in former times haue bin demised to free men, as those which they that be bond men, or our tenants in bondage, do hold of vs, or haue held of vs, or our predecessors, as of the foresaid Duchie, for the terme of 7 yeres, that terme to begin at the feast of S. Michael the Archangel next ensuing: To assesse, demise, and let all and singular our possessions, lands and tenements, and other the premisses, euen as vnto you eight, seuen, sixe, fiue, foure, three or two of you (whereof wee will hause ome one of you the forenamed Ioh. Chamond, Hugh Moleneux, Ioh. Turner, Iames Eresey, to be of the quorū) our said assessors shall seeme best to be done for our profit and cōmoditie, and according to the custome of demising within the said Duchie in the like case, for such terme of yeres as hath bin aunciently vsed. And further to suruey the reparatiōs, defaults, decayes, and wasts of al and singular castles, lordships, mannors, lands & tenements, milles, and all other the premisses, thereunto belonging, which are to bee appropriated to our vse and cōmoditie, and to do reparations. And further to inquire by the oath of honest and lawfull men, or by any other waies and meanes, that you can or best know of all and singular defaults, exiles, wasts, damages, huntings, of and in our forrests, chaces, parks, woods, and vnder woods, aforesaid, which do belong vnto vs, done and cōmitted to our damage and preiudice, and to what value they doe particularly extend, and by

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what men or man such spoiles, wasts, huntings and sales haue bene made, at what time, how and by what meanes. And we doe giue strait commandement to all and singular our officers, ministers, tenants and seruants, that they and euery of them be attēding, helping, and obedient vnto you, 8. 7. 6. 5. 4. 3. and 2. of you, (whereof we will haue some one of you the said Io. Chamōd, Hugh Moleneux, Ioh. Turner, Iames Eresey and Iohn Walsh, to bee of the quorum) in doing and executing all and singular the premisses, as is meete. In witnes whereof, because we haue not our own seale at hand, we do therfore procure the priuie seale of our most redoubted Lord the King our father, to be put to the abouesaid presents. Given the 10. day of August, in the yeere of the raigne of our most redoubted Lord the King our father aforesaid the 22.

By which cōmission there were then granted 500. and more estates, the fines and rents thereof being answered to the said Prince Henry, as by the accomptes thereof appeareth, being in these words.

An assessement or a renting of all the lands, and tenements of Henry, son of the most mighty Henry the 7. King of England, and France, and Lord of Irelād, Prince of Wales, Duke of Cornwall, and Earle of Chester, being of his Dukedom of Cornewall, within the counties of Cornewall and Deuon, made in the moneth of October, in the 23. yere of the raigne of the foresaid King, by his trustie and welbeloued Hugh, by God's permission Bishop of Exeter, Robert Willughby Lord of Brooke, Steward of his Duchie of Cornewall, Peter Beuile, Iohn Chamond, Hugh Moleneux, Iohn Turner, Iames Eresey, and Iohn Walsh,

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assigned by the letters patents of the said Lord the Prince: The tenour of which letters patents, followeth in these words, &c.

Ovt of which two precedents, although some captious exceptions might bee made and taken to the first of them; yet his Maiestie, and the Lords of his Priuie Counsell, conceiued the second to be beyond all exception. Yet, notwithstanding was it demaunded by the great and iudicious Councellour, the Lord Chancellour of England, whether there were any other matter or precedent after the Statute of 11. Edw. 3. before the time of King Henry the seuenth (the said distance of time being long) to expresse the intent and true meaning of the said Statute; for that vse and practise were euer the best expositors of the true intent and meaning of statutes. Whereunto was answered, That there could not be any precedent directly in that point; for that after the making of that Statute, vntill the raigne of King Henry the seuenth, there had not bene any eldest sonne of any King of England, that died in the life of the King his father, leauing a second brother then liuing: and therefore there could not be any precedent of that kind; but yet there was a record of Parliament of 5to. of Henry the fourth, that fully and plainely expresseth and prooueth the true intent and meaning of the said Statute of 11. of Edw. the third. And for that the saide record of Parliament containeth in it selfe many notable things worthy the obseruation, it is not vnfit to set downe the same in *his verbis*, (although it be long, and but some part thereof aptly pertinent to the point in question:) Which record of Parliament, is as followeth.

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Item, by the common assent and will of my thrice-honoured Lord the Prince, and of his Counsell on the one part, and by the common consent and will of Master Iohn Cornewall, and of my thrice-honoured Lady the Countesse of Huntingdon his wife, and of their Counsell on the other part, in the presence of the King, and of the Lords in Parliament, a schedule indented and also ensealed, of certaine matters agreed vpon betwixt them, was preferred in the same Parliament to bee enrolled in the Parliament Rolle; the tenour of which schedule followeth. ¶ It is to bee remembred, that the twelfth day of March, an agreement was made, if it be so pleasing to our Soueraigne Lord the King, betweene the thrice-noble Lord the Prince, and John Cornwall Knight, and Elizabeth his wife, in such forme as followeth: That is to say, forasmuch as the said Elizabeth holdeth certaine mannors, lands and tenements, which the said thrice-noble Lord the Prince, claimeth to be annexed to his Dukedome of Cornewall; the said Iohn and Lady Elizabeth shall come in open Parliament, and before our Lord the King, they shall acknowledge, and the said Elizabeth for her selfe shall confesse, that she holdeth the said mannours, lands, and tenements, &c. which were and are parcel of the said duchy. Vpon which acknowledgment, iudgement shalbe giuen by our Lord the King, and the Lords of the same Parliament, that the said thrice-noble Lord the Prince, bee restored to the said mannors, lands and tenements, and shal haue them againe quietly to him and to his heires. And after such iudgment so giuen, the said thrice-honoured Lord the Prince, shall graunt all the said mannours, lands

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and tenements, &c. to the aforesaid Iohn and Elizabeth, to haue and to hold for the terme of the life of the said Elizabeth: as by the deed indented of the said thrice-honoured Lord the Prince shall more fully appeare. And before that liuerie of the said deed shalbe made to the said Mer. Iohn, and Elizabeth, an entrie upō the surrēder and iudgement aforesaid shall be made by the officers of my said Lord the Prince, in so short a time, as may conueniently be done. And then presently after, the foresaid Indenture, with a letter of warrant of an action to deliuer seisyn, shalbe deliuered on the part of my Lord the Prince to the said Master Iohn, and Elizabeth, of the mánnours and profits aforesaid, with their appurtenances, vnto the said Master Iohn, and Elizabeth, or to their attorneyes, according to the purport of the said Indenture: so as my Lord the Prince shall take but onely attendance and seisin, in the foresaid mannours. And because the said thrice-honoured Lord the Prince is within age, so that in law his warrant is not effectuall, for to giue a sure estate to the foresaid Iohn and Elizabeth, for the life of Elizabeth: hee shall giue assurance by his faith before our said Lord the King, and all the Lords of the same Parliament, that when he comes to his full age, he shall make and cause to bee made to the said Iohn, and Elizabeth, for the life of Elizabeth, a sure estate against himselfe and his heires, with all his power, of all the said mannours, lands and tenements, &c. So as if they doe cōmit any waste thereupon, or vpon any parcell thereof, that then they, and euery of them, may be impeachable of waste by my Lord the Prince, and his heires. And also that hee shall maintaine the said

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Iohn and Elizabeth, in their possession of the said mannours, lands and tenements, &c. with all his power, during the life of the said Elizabeth. And the like oath shall the thrice-honoured Lords Thomas, Iohn and Humfrey his brethren take, if it so happen (which God defend) that the said Duchie doe come into their hands. And also the said thrice-honoured Lord the Prince, shall require all the Lords being in the same Parliament, to beare witnesse of the same oath. And during the nonage of the said thrice-honoured Lord the Prince, the said Iohn and Elizabeth shall not be molested nor troubled in their possession of the said mannors, lands and tenements, against the forme aboue said: And all this shall be enacted in the Parliament, aswell the deed of graunt of the said thrice noble Lord the Prince, made vnto the said Iohn and Elizabeth, of the said mannors, lands and tenements, &c., as also the said oath made by the said oath made by the said thrice noble Lord the Prince, and his brethren aforesaid. And after all this performed, the said thrice-honoured Lord the Prince, shal make liuery by vertue of his graunt to the said Iohn and Elizabeth, of al the said mannors, lands and tenements, &c., comprised within his deed of graunt. And the foresaid Iohn and Elizabeth after liuery made vnto them of the said lands and tenements, and liuery of the deed of graunt of the said thrice-honoured Lord the Prince, with a letter of attorney vpō the same deed, shall surrender all their patents to the Attorney of our said Lord the Prince, (presently after liuery made by him (which they haue of the graunt of the said lands and tenements. And hereupō the xx. day

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of March then next ensuing, before our said Lord the King, in open Parliament in presence of the Lords Spirituall and Temporall, came aswel my said Lord the Prince, as the aforesaid Iohn Cornewall and Elizabeth his wife in their proper persons and acknowledged it: The said Elizabeth cōfessed and acknowledged before the King, that shee did hold for terme of the life of her the said Elizabeth, the said mannors, lands and tenements, as parcels of the said Duchy. Vpon which acknowledgmēt judgement was giuen by our Lord the King and the Lords of Parliament, that the same thrice-noble Lord the Prince, should be restored to the said mannors, lands and tenements, and should quietly rehaue thē to him and to his heires. After which iudgement giuen, my said Lord the Prince, graunted by his faith giuē in the hand of our Lord the King, that presently after that he should haue seisyn in the said mannors, lands and tenements, and attournement of the tenants in forme as is aboue declared in the said schedule indented (which seisyn and attournement should be taken by the officers of my said Lord the Prince, as speedily, as cōueniently might be, without taking any other profit to himselfe) the said Lord the Prince would by his deed indented, graunt vnto the said Mr. Iohn and Elizabeth, for terme of the life of the said Elizabeth, all the said mannors, lands and tenemēts, with their appurtenances whatsoeuer; the tenor of which deed followeth in these words.

Henry first-begotten son of the most excellent King of England and France, Prince of Wales, Duke of Aquitaine, Lancaster and Cornewall, and Earle of Chester, To all vnto whom these present letters shall come, greeting, Knovv ye that wee

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haue giuen, graunted, and by this our present writing haue confirmed vnto Iohn Cornwall, and Elizabeth his wife, Countessse of Huntingdon, the castle and mannor of Trematon, the mannor of Calestock, the mannor of Ashburgh, the castle and parke of Rostozmell, the mannor of Rostozmell, the mannor of Penlyn, the mannor of Penknyth, the boroughes and townes of Lostwithiell and Camelford, all the fishing of the water of Foweye, the mannor of Tewynton, the mannor of Moresk, and the mannor of Tyntagell, To have and to hold all the foresaid castles, mannors, parke, boroughs, townes, and fishings with the knights fees, and the aduousons of churches, priories, hospitals, chantries, chappels, chaces, parkes, offices, mills, streames, passages, woods, warrens, fishings, moores, marshes, medowes, pastures, faires, markets, franchises, liberties, customes, wards, mariages, releifes, escheates, cōmons, aswel of free tenants, as of bondmen, and the reuersions to the said castles, mannors, parks, boroughs, townes, and fishings aforesaid belonging: Together with all maner of other profits, cōmodities, and appurtenances to the said castles, mannors, boroughs, townes, and fishings aforesaid belonging; or appertaining, to the forenamed Iohn and Elizabeth, for the terme of the life of the said Elizabeth, without rendring any thing to vs or to our heires for the same. And we the foresaid prince and our heires wil warrant and defend for euer, all the foresaid castles, mannors, parke, boroughes, townes, and fishings, with all their appurtenāces as is aforesaid, vnto the forenamed Iohn and Elizabeth, during the life of the said Elizabeth. In witnes whereof these our presēt letters are made in maner of an Indēture:

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to the one part whereof remayning in the hands of the foresaid Iohn and Elizabeth, we haue caused our Seale to be put: and to the other part, which is retained in our hãds, the seales of the foresaid Iohn and Elizabeth are annexed. These being witnesses; Thomas Archb. of Canterbury, Richard Archb. of Yorke, Henry Bishop of Lincolne, Chancelor of England, Edward Duke of Yorke, Iohn Earle of Somerset, Henr. of Percy, Earle of Northũberland, and William Lord of Roos, Treasourer of England, and others. Given at Westminster the 6. of April, in the 5. yeere of the raigne of our most excellent king and father Henry, since the Conquest the fourth.

And the said deed being read in the presence of our said Lord the King, and of the Ll. spiritual and temporall aforesaid, my said Lord the Prince, graunted that liuery of seisyn should be made upõ the same deed to the said Iohn and Elizab. or to their attorneyes or attorney, according to the purport of the said deed. And that my said Lord the Prince acknowledged and promised by his said faith, before our said Lord the King, and the Lords aforesaid, that at his full age he would make and cause to be made vnto the said Iohn and Elizabeth, for the life of the said Elizab', a sure estate against himselfe and his heires, of all the said mannors, lands and tenements; and would maintaine them in their possession with all his power: And vpon this promise and oath so made by him to performe it, he made request to our said Lord the King, and to all the Lords spirituall and temporall, to beare witnes of it. And in the same manner the thrice-honoured Lords, Thomas, Iohn, and Humfrey, brothers to my said Lord the Prince, made such an

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oath and promise in the forme abouesaid. And moreouer it was agreed, that after the said liuery had by the aforesaid Mr. Iohn and Elizabeth, and the said deed indented shewed in the Chauncery, the same deed should be enrolled in the said Chauncery: which thing was graunted by our said Lord the King, and the Lords aforesaid. And further our said soueraign lord the King, of his most abundant grace granted in open Parliament the ratification and cōfirmation of the said deed indented, and of the graunt made by my said Lord the Prinçe, to the foresaid Mr. Iohn and Elizabeth, for the terme of the life of the said Eliz' in the forme aforesaid.

Whereby it is plainly expressed, that the King, and the Ll. spirituall and temporal, did then conceiue and were of opinion, that if the then Prince Hen. Duke of Cornewall should die, then Tho. Iohn and Humfrey his yōger brothers should in their severall turnes be Dukes of Cornwall: and yet were they not, nor could be *filij primogeniti nati*, but *existentes*. The words in the said Record expressing the Kings and Ll. opinion to be so, are in two parts: First, in that the words are; And the like oath shall the thrice-honored Lords Thomas, Iohn, and Humfrey, his brethren take, if it so happen, (which God forbid) that the said dukedome doe euer come into their hands, &c. Whereby it is plainly and fully expressed, that if the then Prince Hen. Duke of Cornwall should die, then it was cōceiued, that the three yonger brethren in their seuerall turnes, were to be Dukes of Cornewall.

Secondly, in that the said Thomas, Iohn, and Humfrey did take their oath before the King in

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full Parliament, that if Prince Henry should die, then they would performe his agreement made with the said Countesse, as in the Record is contained: which they could not doe, but as Dukes of Cornewall.

3. Lastly, as to the point to prooue what is the true sense and meaning of the wordes in the said Statute contained, being *filius primogenitus*, or *filij primogeniti*, by Statutes and precedents both before the said Statute of 11. Edward 3. and since.

1. For the true exposition of the wordes (*filius primogenitus*) the Statutes and precedents before the Statute of 11. Edward 3. are many.

1. First, the Statute of Malbridge, which was made to prouide a remedie against those, Who were wont to enfeoffe their first-begotten, and their heires being within age of their inheritance, &c. There, although the words in that Statute bee (first begotten) yet hath it bene euer since construed and practised, that if feoffements be made to second sonnes (beeing heires after the death of their elder brothers) it is within the sense, puruiew, or remedy of that Statute.

Secondly, it likewise appeareth in the writt of ayde in Fitzherbert, which followeth in these wordes: The King to the Sheriffe, &c. Wee commaund you that &c. you cause to bee had a reasonable ayde of the knights and his free tenants in your bayliwicke, to make his first begotten sonne knight, or to marry his first begotten daughter, according to the forme of the Statute, by the Common Counsell of our Kingdome of England therein prouided. And yet if the first sonne dye, the second sonne being heire to his father shall haue that ayde; and yet the words are (first be-

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gotten sonne and heire:) And so, if the eldest daughter dye, a second then liuing, the father shall haue ayde to marry her, and yet shee is not the first begotten daughter: Which by these and many other Acts of Parliament, and precedents hath bene euer construed and practised to be the first begotten sonne, or first begotten daughter being, and not first begotten sonne borne, or first begotten daughter borne onely.

2. Secondly, to prooue what is and hath bene conceiued to be the sense and true meaning of the wordes *filius primogenitus* in the said Statute of 11mo. Edw. 3. conteined; it is declared, expressed, and approued by diuers subsequent Statutes As,

1. First, by a Statute made 2do Maij, anno regni Hen. 5ti 9no. in these words following. It is to be made knowne, that wherias at the Parliament holden at Westm. the Munday next after the feast of S. Matthias the Apostle, in the yeere of the raigne of K. Edw. the 3, after the Conquest the xj, amōgst other things it was agreed, that the eldest sonnes of the Kings of England, that is to say, they that should be next heires to the realme of England, should bee Dukes of Cornwal, and that the county of Cornwall should foreuer remaine as a Duchy to the eldest sonnes of the Kings of England, that should be next heires of the said realme, without being giuen elsewhere; and that thereupon the said K. Edward by his charter the 17. day of March then next ensuing, with the common assent and counsell of the prelats, earles, barons, and others of his Counsell being in his said Parliament, gaue vnto Edward his eldest sonne then Earle of Chester, the name and honour of Duke of Cornwall, and made him Duke of Cornewall, and girded him with a

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sword: And to take away doubts for the time to come, what things and how much the foresaide Duke, and other Dukes of the same place, (who for the time should haue the name of the saide Duchie) ought to haue, hee did expresse in certaine by the said charter, all things in speciall which hee would haue to belong to the said Duchy. And thereupon the same King by his said charter, gaue and graunted for him, and for his heires, vnto his said sonne, vnder the name and honour of Duke of the said place, diuers castles, mannors, lands, tenements, and other possessions. Amongst which the said King granted, that the mannour of Istleworth, with the appurtenances in the countie of Middlesex, which Philip then Queene of England held for terme of her life, and which after the death of the said Queene, ought to returne to the said King and his heires, after the decease of the said Queene, the said Mānor of Istleworth with the appurtenances should remaine to the said Duke, and to the eldest sonnes of him and of his heires Kings of England, and Dukes of the place aforesaid, and that were inheritably to succeed in the Kingdome of England. All which castles, mannors, lands, tenements, and other possessions, with the knights' fees, and aduowsons of churches, abbeies, priories, hospitals and chappels, and with the hundreds, wapentakes, fishings, forrests, chaces, parks, woods, warrens, faires, markets, liberties, and free customes, wards, reliefes, escheates, and seruices of tenants, aswell free as bondmen; and all other things to the said castles, mannors, lands, tenements, and other possessions aforesaid in any maner belonging or appertayning, the foresaid King did by his said charter for himselfe and for his heires, annexe and

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vnite to the said duchie for euer thereunto to remaine, so as frō the said Duchy they might at no time after be in any wise seuered, nor might be in no sort giuen nor granted to any persons, but to the Dukes of the said place, by the said K. Edward nor his heires. Nevertheles the King our Soueraigne Lord doeth now graunt and ordaine in this present Parliament, with the assent of all the Lords spirituall and temporall, and of the Commons in the same Parliament assembled, that the said mannour of Istleworth, with the knights fees, and aduowsons of churches, chauntries, and chappels, and with the hundreds, wapentakes, fishings, forrests, chaces, parkes, woods, warrens, faires, markets, faires, liberties, and free customes, wards, reliefes, escheates, and seruices of tenants, aswel free as bōdmen, streames, waters, and all other things to the said mannor of Istleworth, in any sort belonging or appertaining, bee by the authoritie of this Parliament seuered, disannexed, and disunited from the said Duchy of Cornwal for euer. And further our said soueraigne Lord, by the authortie of the same Parliament, doeth giue, graunt and assigne the said mannor of Istleworth, with the knights fees and auowsons (*sic*) of churches, chauntries and chappels, and with the hundreds, wapentakes, fishings, forests, chaces, parkes, woods, warrens, faires, markets, liberties, and free customes, wards, relifes, escheats and seruices of tenants, aswel free as bōdmen, streames, waters, and all other things to the said mannor of Istleworth in any sort belonging or appertayning, to the abbesse and couent of the monasterie of S. Sauiour, and S. Mary the Virgine, and S. Bridget of Sion, of the order of S. Austine, called S.

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Sauiours, by our said soueraigne Lord in Istleworth in the county of Middlesex newly founded. To haue and to hold to the said abbesse and couent, and their successors, in pure and perpetuall almes, with a sufficient clause of warranty to bee made by our soueraigne Lord, for himself and his heires, to the said abbesse and couent, and their successors for euer, &c.

Ovt of which Acte of Parliament, being the first and nearest the time of the said Statute of 11mo Ed. 3. two things are effectually to be obserued,

1. First, in that it reciteth the Statute of 11mo. Ed. 3. to be, That by that Statute, it was agreed, that the eldest sonnes of the Kings of England, that is to say, they which should bee next heires to the realme of England, should be Dukes of Cornewall, and that the countie of Cornewall should for euer remaine as a Duchy to the eldest sonnes of the Kings of England, who should be next heires of the said realme, without being bestowed elsewhere.

2. Secondly, in that it expresseth, that, Thereupon the said King Edward by his charter the xvij. day of March then next ensuing, with the common assent and counsell of the prelates, earles, barons, and others of his counsell being in his said Parliament, gaue to Edward his eldest sonne, the said Duchy of Cornewall, &c. And amongst other castles, mannors, &c., graunted, that the mannor of Istleworth in the countie of Middlesex should remaine to the Duke, and to the eldest sonnes of the Duke, and of his heires Kings of England, &c.

In the recitall of both which Statutes (for so the last was aswell as the first, as by the report of

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the late Prince his case it appeareth) there be no words of (first begotten sonne) vsed; which plainely and fully proouetb, that the said Parliament then made no difference of cōstruction betweene the words (first begotten sonne) and the words (the eldest sonnes of the Kings of England, that is to say, those that should be heires to the realme of England.)

2. Secondly, it is expressed in a record, in the remembrances of the Exchequer of the 30. yere of the late King Henry 8. viz. Amongst the Records of the Terme of the Holy Trinitie the 14. Rolle in the Exchequer remayning on the parte of the Remembrācer of the Treasourer is cōtained amōgst other things as foloweth. That one Edmund in times past Earle of Cornwall, was seized of the foresaid countie of Cornewall, and of the Knights fees and other fees to the said county belonging, in his demesne as of fee and right: And being therof so seized of such an estate, died seized thereof; after whose death, the foresaid Coūtie of Cornwal, and the Knights fees, and the other fees to the same countie belonging, did descend vnto Lord Edward in times past King of England the first, as being kinseman and heire to the foresaid Edmund late Earle of Cornwall, that is to say, sonne of the Lord Henry, late King of England the third, sonne of King Iohn, father of Richard, father of the foresaid Edmund: By vertue wherof the said late K. Edward the first, was seized of and in the foresaid county, and other the premisses, with all his appurtenances in his demesne as of fee. And hee thereof so seized of such an estate, died thereof seized. After whose death the said county and other the premisses, with all their appurtenances

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vnto the same county belonging, did descend vnto Lord Edward late King of England the second, as sonne and heire of the foresaid late King Edward the first: By vertue whereof the same late K. Edward the second was thereof seized in his demesne as of fee: and hee thereof so seized of such an estate, died therof seized; after whose death the foresaid County of Cornwal, and other the premisses with all their appurtenances vnto the said county belonging, did descend vnto Lord Edward late King of England the third, as sonne and heire of the said late K. Edw. the second: By vertue wherof the same late K. Edward the third was thereof seized in his desmene as of fee: and he being thereof so seized, at his Parliament holden in the 11. yeere of his raigne, amongst other things it was ordained and enacted: That the said Coūtie of Cornwall should for euer remaine as a duchy to the eldest sonne of the Kings of Englād, which should be next heire to the kingdome, without any forme of gift, as in the same Act is more fully contained. And afterward the foresaid late King Edw. the 3. by his letters patents dated 3. day of Ianuary, in the 11. yeere of his raigne, and enrolled in the Remembrances of the Exchequer of the 42. yere of the said late King Edward 3. viz. Amongst the Records of the Terme of S. Michael the 15. Roll on the part of the Rēmēbrancer of the Treasourer, reciting by the same, That wheras he lately intending to honour the person of the beloued and loyall, his the late K. Edwards first begotten son then Earle of Chester, gaue vnto the same his son the name and honour of Duke of Cornewall, and aduanced him to bee Duke of Cornewall, and girded him

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with a sword, as was meet: and gaue and graunted vnto his foresaid sonne for the cōtinuing of the state and honor of Duke of Cornewall, according to the nobilitie of his birth, and for the more easie supporting of the burdens which lye so much upō him, for himselfe the late king and his heires, vnto his foresaid sonne, the shriualtie of Cornewall, &c. to haue and to hold to the said duke, and to his and his heires the Kings of England their first begotten sonnes and dukes of the said place, that were hereditarily to succeed in the kingdome of England, together with the knights fees, and the aduowsons of churches, and all other things to the castles, boroughes, townes, mannors and honours aforesaid, in what maner soeuer belōging of the said late king, and his heires for euer: as in the patent of the said late king to the foresaid then duke thereof made, is more fully contained.

In the recitall of the first of which Statutes, it is said that it was thereby enacted, That the said county of Cornwal should for euer remaine as a Duchy to the eldest sonne of the Kings of England, which should be next heire to the kingdome: and therein speaketh not of *filius primogenitus*, or *filij primogeniti*, or *filijs primogenitis*.

In the second of which Statutes made in the same Parliament, that the first was (which was only made to auoyd future doubts and questiōs, what did or should belong vnto the said Duchy of Cornewall, as it appeareth by the Statute of 9. Hen. 5. before expressed:) although the words be there in the *Habēdum*, to the same Duke, and to his, and his heires the kings of England their first begotten sonnes and Dukes of the said place, that were hereditarily to succeed

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in the kingdome of England, &c. yet the sense of the said words (*filijs primogenitis*) or first begotten sonnes, is expounded and explaned by the words of the first Statute, being to the eldest sonne of the kings of England, which should be next heire to the kingdome: Otherwise those two Statutes made to one end and purpose, and in one and the selfe same Parliamēt, could not stand together, nor effect the end for which they were both made.

3. Thirdly, and lastly, it appeareth by an Acte of Parliament made Anno 31. Henr. 8. reciting, That wheras in the Parliament holden in the 11. yeere of the raigne of the late King of famous memory K. Edward 3. it was amongst other things established, enacted and ordained, that the eldest sonne of the king of England, which should be inheritable to this realme of England should be Duke of Cornwall, and that the same Duchy of Cornewall should alwaies be to the eldest sonne of the Kings of England, which should be next heire vnto the said realme, and that he should haue and enioy towards the maintenance and supportation of his princely estate, all the whole and entire Dukedome of Cornewall, and all castles, honnors, &c. to the same belonging.

By or in which recitall of the said Statute of 31. Hen. 8. no mention is made that *filius primogenitus*, or first begotten sonne, (which is the English word) should be Duke of Cornwall, but that the eldest sonne of the King of England, which should be inheritable to this realme of England, should be Duke of Cornewall.

There is also contained in the said Act of Parliament, a (sauing) to all persons their rights, other, then to the then Prince Edward, and euery

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other which should then after happen to be the King's eldest sonne, and next heire vnto the Crowne of England, but therein saueth nothing to the *filijs primogenitis*, or first-begotten sonnes of the King, nor vseth the words.

There is also in that Statute a recompence giuen in liew and satisfaction of the said honor of Wallingford, in these words: And further be it enacted, that the said excellent and vndoubted Lord Prince Edward, and euery other, which shall hereafter happen to be the King's eldest sonne, and next heire vnto the Crowne of this Realme, shall haue, hold, and enioy for euer annexed, vnited, and knit to the said Dukedome, &c. But therein giueth no recompence to Prince Edward, and *filijs primogenitis*, or first-begotten sonnes of the Kings of England: which they would haue done, if the Parliament had conceiued that the words (*filius primogenitus*) and (the eldest sonne of the King) had not had one and the selfe same sense and signification.

PON due consideration had of all which precedents, Acts of Parliament, and other the before recited reasons and proofes, his most Excellent Maiestie, by the aduice of the lords, and others of his Highnes Priuy Counsell, clearely and absolutely resolued, That the high and noble Prince Charles, now his eldest sonne was in right, and by vertue of the said statute of 11. Ed. 3. ought to be Duke of Cornewall. And vpon that resolution, his Maiestie commaunded that his Highnesse said sonne Prince Charles, should haue and

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enioy the honour, stile, and dignitie of Duke of Cornewall, which hee presently had, and enioyed accordingly.

And to the end (the cause being of so great consequence) that the reasons that mooued his Maiestie's said resolution should be publiquely knowne to all, that thereby all present doubts in this case might be auoyded, and future questions in succeeding times likewise preuented, his Highnes out of his princely prudence, commanded both the state of the said question, and his said resolution thereupon, together with the reasons that mooued his Maiestie thereunto, to be particularly and fully expressed in writing, and to be manifested to all by printing the same: that so all men might be therein satisfied; which otherwise certainely might mistake, or at least stand in doubt, because the records, that giue satisfaction in this case are not in euery man's hands; neither haue men (otherwise greatly learned in the lawes of this realme) cause to search curiously into them: But the late dolefull accident of the death of the noble and memorable Prince Henry, enforced this necessary trauaile with all care and obseruation, which hath brought this point, otherwise obscure, so clearely to light.

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Appendix A.

LA DECLARATION

DE NOSTRE SOVVERAIN SIRE LE ROY, PAR L'ADVIS, DELIBERATION, ET PLEIN consentement tant de tous les Seigneurs, & autres du Conseil priué de sa Maiesté, QVE DV MAISTRE DES ROLLES, ET DV CONSEIL DE SA MAIESTE sçauant en droict (asçauoir des Gens du Roy) touchant les pretentions du tres-Noble, & tres-cher fils de sa Maiesté Charles le Prince, & Duc de Yorke, au Duché de Cornouaille.

¶ *Publié par le commandement du Roy.*

¶ IMPRIME A LONDRES par Robert Barqver, Imprimeur de sa Maiesté tres-excllente. [*sic*]

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LE CAS DV DUCHE DE CORNOVAILLE.

D'AVTANT que depuis la mort du feu hault & Excellent Seigneur Henry Prince de Gales, Duc de Cornouaille, & Comte de Chestre, fils aisné de sa Maiesté, on a mis en dispute & question, pour sçauoir, si le hault & Excellent Prince Charles, Duc de Yorke (maintenant fils aisné de sa Maiesté) est par la mort de son dit frere, & apres icelle (ipso facto) Duc de Cornouaille, & saisi dudit Duché par les loix & Ordonnances de ce Royaume, ou non: Et d'autant que ladite question sembloit estre de grande cōsequence, en ce qu'elle concerne l'honneur inherent non seulement dudit Prince Charles pour le present, mais aussy de tous ceux, qui (par la mort d'un premier né) deuiendroient fils & heritiers apparans des Roys de ce Royaume en tous siecles à venir: Et encores, au regard des grandes & amples possessions appartenantes audit Duché; dont le droict & maniement, & de tous les Officiers, tenans, fermiers, & possesseurs d'icelles, & de chasque partie d'icelles, depend entierement de la resolution des pretensions que ledit Duc Charles faitla dessus. Sa Maiestè de sa prouidence Royale requist estre informè de ce, que la Loy, & Exemples precedens enseignent en ce cas. . . . . .

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